

This is a book of ^{both rare} ~~very rare~~ & curious. P. H. 2



Francis AN *Hargrave*
ABSTRACT, OF CER-
TAINE ACTS OF PARLE-
ment: of certaine her *Maiesties*
Iniunctions: of certaine Canons,
Constitutions, and Synodals prouinciall,
established & in force, for the peaceable gouernment
of the Church, within her *Maiesties* Dominions and
Countries, for the most part heretofore vnknownen and
vnpractized.

Cod. de Epif. & Cler. l. Nulli licere.

Neither let them feare, to be called and suspected pickethanks, seeing their faithfulness, and diligent travell carrieth with it, as well praise, as honestie and godly Zeale: having published the truth to the eares of all men, and brought it to the open light.

I have a new edition of this Address
in a larger letter; & I give it at this

PROVERB. 31. 8.
~~is a reprint with paging in the~~
~~margin on that is a count. J. H.~~
 Open thy mouth for the dumb, in the cause of all the
 children of destruction.

Reper



Note, that on further examination, I find, that this printed copy of the Abstract wants several treatises, which should follow the treatise a. g. t. dispensations for pluralities, &c. &c. the work so as to include 266 pages. In another volume of ecclesiastical tracts in [

Sept 1st
Church 1890.

697 p 2.
1-2

Sept 1st
90. p. 12 Church
Exp. ita. or other.

This is a book of ^{both rare} ~~very~~ rare & curious. F.H.



Francis AN Hargrave
ABSTRACT, OF CER-
TAINE ACTS OF PARLE-
ment: of certaine her Maiesties
Iniunctions: of certaine Canons,
Constitutions, and Synodals prouinciall,
established & in force, for the peaceable gouernment
of the Church, within her Maiesties Dominions and
Countries, for the most part heretofore vnknown and
vnpractized.

Cod. de Epif. & Cler. l. Nulli licere.

Neither let them feare, to be called and suspected pickethanks, seeing their faithfulness, and diligent travell carrieth with it, as well praise, as honestie and godly Zeale: having published the truth to the eares of all men, and brought it to the open light.

I have a edition of the Address
in a larger letter; & I give it at this

PROVERB. 31. 8.
Open thy mouth for the dumbe, in the cause of all the
children of destruction.

Reyer

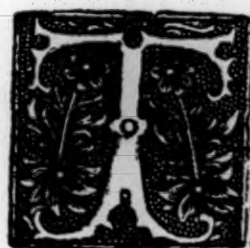


Note, that on further exam-
-ination, I find, that this
printed copy of the Abstract
wants several treatises,
which should follow the treatise a g.
Dispensations for pluralities, &c. &c.
the work so as to include 266 pages. In
another volume of ecclesiastical tracts in [





To the Christian Reader.



Thou hast seene (belo-
ued) by long experience, a lamenta-
ble contention, to haue growen and
continued in our English Church,
about reformation of Ecclesiasticall
discipline, and popish ceremonies,
whereby the quiet and peaceable estate, both of the
Church, & common wealth, haue bene shrewdly trou-
bled, and brought in hazard. The causes of which war
and dissention, I leaue to the good consideration of
thy godly wisdom: onely I am to intreat thee, to ac-
cept this my labour bestowed vpon the study of the
lawes, appointed for the gouernance of the same
Church, hoping that by the authoritie of hir excellent
maiestie, and the counsaile of the honorable fathers
and gouernours of hir highnes empire, they may
hereafter, not onely be better executed, but also, if the
case so require, be reuifited. For, were the same lawes
either better knowne vnto the whole Church, either
better executed by those vnto whome our gracious
Soueraigne hath committed their Execution, no
doubt, but very many and notable points of such
controuerfies, as haue bene a long time amongst vs,
would be easily and speedily by the same lawes decy-
ded. I am not (beloued) in this so waighty a cause, ab-
solutely to rest my selfe vpon the skill of mine owne
simple iudgement: onely according to the know-

A. 2.

ledge

or.

ledge giuen vnto me, I haue for my part, faithfully laboured to cite the lawe , for that ende and purpose, wherevnto I take the same to haue bene first ordeined. And therefore I am hartely to desire thee, to accept of this my labour and trauaile , vndertaken, not onely for the defence of her highnesse Lawes, but also for my brethren and neighbours sakes, and that peace and prosperitie might be within the wals and pallaces of Ierusalem : Farewel, and pray in thy spirit, for the preservation of the life of our gracious Queene E L I Z A -
B E T H.

An





Pag. 1.

AN ABSTRACT OF CERTAINE ACTES OF Parlement : of her Maiesties Iniuncti- ons, Canons, and Synodals Prouincial : esta- blished, and in force, for the peaceable gouernment of the Church, within her Maiesties Domini- ons ; heretofore for the most part unknowne and vnpractised.



Y an act of Parliament, made the 25. H. 8.
C. 19. intituled, An act concerning the
submission of the Cleargie. &c. It was e-
nacted as followeth.

Provided also, that such Canons, constitu-
tions, ordinances, and Synodals prouinciall, being alreadye
made, which be not contrariant nor repugnant to the lawes,
statutes, and customs of this Realme, nor to the damage or hurt
of the Kings prerogatiue royall, shal now still be vsed and exe-
cuted as they were before the making of this act, &c. This act
is reuined 1. Eliza. ca. 1. Out of this act I conclude, that all
Canons, constitutions, ordinances, & Synodals prouincial, made
before this act, requiring and commanding a learned Ministe-
rie, prohibiting many benefices to be giuen to one man: prohi-
biting ciuil iurisdiction to be in Ecclesiastical men, and prohi-
biting one man to excommunicate: for that such Canons, &c.
cannot be contrary or repugnant to the lawes of this Realme,
nor hurtful to the Kings prerogatiue, are in force, & ought to
be executed: & therefore by this act all the Canons specified in
any part of my treatise are in force, & so by vertue of this act,
a learned ministerie commanded: Pluralities forbidden. &c.

Pag 2.

A.3.

A

*A learned Ministerie comman-
ded by the Lawe.*

*Ex Delect.
Cap. Nihil est.*



N *HILEST.* &c. There is nothing that may hurt more the Church of God, then that men vnworthy are taken to the gouernment of soules. VVe therefore willing to apply a medicine to this disease, decree, by an inuiolable constitution. that when any shall be chosen to the gouernment of soules, he (to whome the confirmation of his election appertaineth) diligently examine both the processe of the election, and the person elected: to the ende, that if all things concurre aright, he may confirme him in his function. For otherwise, if any thing shall be vnaduisedly attempted, not onely he that is vnworthily promoted, but also the vnworthy promoter himselfe shall be punished: and if any man shall approoue any of insufficient learning, of an vnchaste life, or not of lawfull age, when his negligence herein shall appeare, we decree him to be punished thus: not onely that he be quite deprived of power, to confirme the next successor: but least by any meanes he might scape unpunished, that he be also suspended from the commoditie of his owne benefice. Out of which constitution, these conclusions may briefly thus be gathered.

- 1 **Whatsoever is hurtfull to the Church of God, the same is to be forbidden.**
- 2 **But it is hurtfull to the Church of God, to haue unworthy men taken to the gouernment of soules.**
- 3 **Therefore the same is to be forbidden.**
- 1 **He that cannot worthily execute his office, is not to be admitted to holy orders, and Ecclesiasticall dignities.**
- 2 **But a man of insufficient learning, and of dishonest conuersation, cannot worthily execute his office.**
- 3 **Therefore such a one, is not to be admitted to Ecclesiasticall dignities.**

If any iudge the meaning of this Chapter, to be onely of superiour Pag. 4.
Bishops, as Archbishops, Bishops, Abbots, or such like, elected by some common societie of Canons, Monkes, Friars, or collegiat Priests, (because of these words, Election and Confirmation, properly applied to such) and not to inferior ministers (which are pro-
perly

COMMANDED BY THE LAW.

perly sayd to be presented, and instituted:) then is such, both diligently to marke the reason of the decree, providing a remedie against the Detriment that might redound to the Church, in both cases, if for both remedies were not before hand provided: And also to vnderstand that the name of Prelate, is by law attributed likewise to every Parson, and Vicar, hauing cure of soules: *Quia quilibet qui praeest cura animarum, dicitur esse Prelatus.* Every one that is preferred to the cure of soules, is named by this name Prelate: And also that election and confirmation, in and to the superiour functions, haue but the very same effect, to the obtaining of their promotions, that presentation, and institution haue to the inferiour Ministers, for enioying of their benefices: then is such. (I say) to consider all these things, together with the ende of the Chapter, where speciall charge is given for inferiour offices. And so no doubt he will forthwith conceiue the truth, and surcease this surmise, for otherwise the decree following shal convince him manifestly of an error.

*D. ex. de elec.
ric. agrotant.
c. sua & glos.
lynd. Consti.
de sacra. iur.
mand. c. igno-
rantia vers.
pratin.*

PRAESENTI DECRETO. &c. By this present decre. we charge and straightly commaund, that the Physitions for the body, when they shall be called to any sicke persons, they first warne, and induce, the patients, to call for the phisitions of their soules, that when they shall haue prouision for spirituall health, they may proceede to the more holeesome remedie of bodily health, considering, the cause ceasing, the effect likewise ceaseth. Here you see the law is generall, and extendeth to all in generall, as well to poore gentlemen and poore parishioners, as to greasie Monkes, Friers, and Canons, seeing the soules of both may be infected, and the reasons may be thus gathered.

*Ex de panis.
& remissio. c.
cum infirmis
tas.
The soule is
first to be
cured.*

- 1 That which is most pretious is first to be cured, and that which is spirituallly diseased, is spirituallly to be cured.
- 2 But every mans soule is most pretious: and every mans soule is spirituallly diseased.
- 3 Therefore every mans soule ought first to be cured: and every mans soule ought spirituallly to be cured.

OUt of which conclusion followeth this consequent, namely: thence every soule is spirituallly infected, and every soule spirituallly infected must be spirituallly cured, that therefore every soule ought to haue a spirituall Phisition, able to apply a spirituall medicine, and to cure his spirituall disease: otherwise it were absurd, to command, that spirituall diseases should be healed, without spiritual phisitions appointed to that purpose. But this is too too plaine. We

A LEARNED MINISTERIE

will proceed.

Ex. de ar. & qual. p. multi.

CVM SIT ARS ARTIVM, &c. Considering the government of soules is an Art of al Arts, wee straightly commaund, that the bishops, either by themselves, or by other fit me do instruct or diligently informe them that are to be promoted to be Priests, touching holie offices and Ecclesiasticall Sacraments, how they may be able, rightly to celebrate them. For if they shall henceforth presume to ordaine such as are vnskilfull, and ignorant, wee decree, that both they that do ordaine, and they that are ordained, be subiect to grieuous punishment. For it is a thing more holy, especially in the promotion of Cleargie men, to haue a fewe good ministers, then a great many euil: because, if the blind lead the blind, they both shall fall into the ditch.

- 1 Unskillfull and ignorant men ought not to be admitted to an office, wherein greatest knowledge and cunning is required.
- 2 But to the government of mens soules, greatest knowledge, Pag. 6. and greatest cunning is required:
- 3 Therefore, to the government of the soules of men, vnskillfull and ignorant men are not to be admitted.

The first proposition is proued by two reasons: the one *a comparatione*, by a comparison: the other *ab euentu*, from the euent. The second proposition, is the reason of the lawe it selfe: because the government of soules, is *ars arrium*, a cunning past all cunnings. The former reason, which is by way of comparison, is euident. It is a thing much more holy, to haue a litle good, then much euill: wherevnto agreeth that which is written in the 23. Distinction, chap. Tales. *Tales ad ministerium eligantur clerici, qui digne possunt, &c.* Let such Clearks be chosen vnto the ministerie, which may worthily handle the Lords Sacraments. For it is better to haue a fewe Ministers, which may worthily exercise the worke of God, then many vnprofitable, &c. And in like case the Emperour. *Melius est pauca idoneis effundere, quam multis inutilibus praeferuari: & melius est pauca agere cause, quam multis periculose interesse: & multitudo onerosa nihil habet honesti.* It is better to vtter a fewe things aptly, then to burthen men with many things vnprofitably: and it is better to doe a fewe things warily, then to be conuersant in many things daungerously. And a multitude altogether Burdensome, hath no shew of honestie. And againe: the Canon concludeth, *Tutius est ea sine periculo ex necessitate, quae legem non habet, omittere, &c.* It is more safe to omit those things without danger,

In Cod. De veter. iure. c. 155. cons. trarium.
Aurben. De tabell. col. 4.
Aurben. De referen. in fine coll. 2.

COMMANDED BY THE LAW.

Page 7.

danger, by necessity which hath no law: then that through rashness condemned by lawe, they should not without great danger be vainly conferred. Whereas a certain shadow only may appeare in the deede, but no truth follow in effect. All which principles by common experience, are so wel and familiarly knowne unto every one of vs, that they neede few colours to paint them out. For as touching our foode & diet, our furniture & apparel: our pastimes & pleasures: our busines & affaires, we can every mothers son, deeme it farre better, to haue a litle sweete & wholesome meate cleanly dyessed, then many dishes vnseasonably seasoned: that a woman fine and neat in simple attyre, is more to be commended, then one vngainely apparelled in sumptuous robes. That a man were better to keepe one proper horse, or one high flying falcon a kilducke, then ten resty iades, or ten bangling buffards. That one discrete, painefull, and diligent seruant, will doe his master more honestie, and get him more lucre and aduantage, then twenty idle and loytering merchants. And can we be so prouident for our bodily sustentance: so vigilant for our earthly pleasures, & so circumspect for our worldly affaires: and shall we be altogether blocks, and without all sense of vnderstanding, what is most healthfull, most pleasant, and most profitable for our soules. Can we be wise touching the affaires of this life, and shall we be foolish for the life to come? Can we be heedfull for matters momentanie, and of no value or continuance: and shall we be heedelesse in matters of eternitie, and such as concerne our beatitude for euer? If any man thinke, that a few good ministers wil not serue to bring the people of God, unto God: wil he therefore conclude, that he may lawfully appoint many Ministers of the deuils culling, to bring them to the diuell? The second reason is taken from the sequell or euent, which might happen, if remedie were not sought. If the blind lead the blind, they both shall fall into y^e ditch. And it hath many other grounds and conclusions of lawe, to sound it selfe vpon: namely. *Talis debet eligi, cuius comparatione ceteri grex dicantur. Et minister debet esse forma gregis, ad quam se debent subditi reformare: & debent esse ministri in exemplum, quasi signa posita ad sagiandum.* Such a man ought to be chosen to haue the charge of a flocke, in comparison of whom the multitude he hath to gouerne, may in deede be called a flocke: & the minister ought to be the forme of the flocke, wherunto the inferior sort ought to reforme themselves: & the Ministers ought to be examples, and as markes for others to shooote at. These grounds & reasons, amongst the greatest part of our ministers, haue had no place or intertainment at all, but are vtterly turned topsyturvy. For where by these *Maximes*, they should be seers: where they should goe, and step before others in knowledge, as guides to conduct them:

15. *Distinc. & nomie Constitutio. Ordo, quam ad venerabiles.*

Page 8.

A LEARNED MINISTERIE

them : where they should for their pietie, and honest conuersation, be patterns for others to square out their actions by : where they should be markes, for people to aime and shoote at, they be now for the most part, cleane contrary, euen the very failings, and garbage of the people, and such as can scarce say B. to a batledore. Markes in deede to aime at, but such as the nearer a man should shoote at, the more it would be his hinderance. Examles in deede they be, but alas such examles, as it rueth good men to see, how many by them are drawne to vngodlinesse, and vn honestie, to Alehouse haunting, to Dycing, to table-playing, to carding, to bowling, to beare-bayting : yea, and that on the Lords day too. But I say, that notwithstanding these things be thus abused, yet the law prescribeth still how they should be better vsed, as followeth.

*Li. vi. de elect.
c. licet canon.*

LICET CANON. &c. Although the Canon of Alexander the third, our predecessor, among other things did ordaine, that none should take vpon him the gouernment of any parish Church, vnlesse he had accomplished the age of 25. yeares, and were commendable for his knowledge and honestie : yet becaule in the obseruation of the foresayd Canon, many haue shewed themselues negligent. VVe by execution of Lawe, willing to supply their perillous negligence, Pag. 9 ordaine by this present decree, that none be admitted to the gouernment of any parish Church, vnlesse he be fit, for his manners, for his knowledge, and for his age.

And againe, **INFERIORA MINISTERIA**, &c. Let no man take vpon him, the inferiour ministeries : as a Deanrie, an Archdeaconrie, and others that haue cure of soules annexed ; neither yet the charge of a parish Church, vnlesse hee haue accomplished the age of 15. yeares, and be to be approued for his knowledge and conuersation.

These constitutions do expressely prohibite anie person to be admitted to the gouernment of soules, and so to anie parish Church, that is not qualified (as you heare) and why? *Non conuenit talem aly præfici in Magistrum, qui nondum se nouit esse discipulum.* It is vnseemely that such a one be appointed a Maister ouer others, which as yet hath not knowne himselfe to be a disciple. And againe, *Debet promouus esse literatus, quia cum ipse debet alios docere, non debet ipse discere.* He that is promoted ought to be learned, in as much, as taking vpon him to teach others, himselfe ought not now to learne. And againe, *Honores & munera non ordinationi, sed potioribus iniungenda sunt.* Honours and offices are to be giuen to the best approued, and not to an ordination alone. And againe, *Debet promouus omni poscenti reddere rationem.* Hee that is promoted ought to giue a reason to euerie one that asketh.

*40. Distinc. ca.
sacerdotes.
Authen. de
sanct. epist. 5.
Damus.
ff. De Decurio
1. honores. 3.
cap. distinc. 5*

COMMAVNDED BY THE LAVV.

asketh. And againe, *Cura animarum debet vigilijs onerosa esse, & sollicita, ut iste cui committitur, curet ne pereant subditi, sed saluentur.* The charge of soules ought through watchfulnesse to be painful and carefull, that he to whom it is committed, be diligent to foresee that the people perish not, but rather that they may be saved. And againe, *Et qui doctior est, & sanctior, est eligendus.* And he that is the more learned and the more holie, is to be chosen. And euen vpon the selfe-same reason: namely, that the soules of the people should not be in perill for want of teaching: it is ordained, that no Church with cure of soules, should be destitute, aboue a certaine time prefixed and limited, for the prouision of some man able to guide the people.

*Glos. consili.
Ordo cum sit.*

*S. q. 1. Licet, etc.
go.*

pag. 10.

NE PRO DEFECTU, &c. Least for want of a Pastour the rauening Wolfe should destroy the Lord his flocke: or that a Widow Church should suffer great hinderance in her substance: wee willing in this case, both to meete with the perill that might happen to soules, and also to prouide for the indemnities of the Churches, doe ordaine, that a Cathedrall Church or regular Church, be not void aboue three moneths. And againe, euen for the selfe-same causes and considerations in the Chapter, *Nulli ex de concessio. prebend.* And in the Chapter, *Quoniam ex. de in re patro.* It is commaunded, that if a lay man, or Cleargie man, patron of a benefice, present not his Clarke, the one within sixe moneths, the other within foure moneths: that then afterwards it shal and may be lawful for the superiour to supplie their negligence, and to place one able to go in and out befoze the people, to guide them, to teach and instruct them. They, who by vsurpation exercised authoritie ouer the Lords people, did in the time of darkenesse so carefully prouide, that the people vnder their pretended government, should not be vnprouided, (as they imagined of a seer) to foresee the daunger that might ensue towards the soules of the people, aboue the space of foure, or at the most of sixe moneths. What excuse now remaineth, for them that challenge the like authoritie ouer the people of the Lord, in the time of this great light, and manifestation of his sonne: suffering manie thousand flockes to want shepherds, and so to be in daunger of the Wolfe: not onelie sixe moneths, but now almost sixe and twentie yeares, for so long as they want a shepherd, so long are they in daunger of the Wolfe: but they want a shepherd, so long as they want one able to gouerne them, to exhort and to admonish them, to rebuke and comfort them. *Paria enim sunt omnino non fieri, aut minus rite fieri: qui minus soluit, non soluit: perfecisse edificium videtur, qui ita struunt, ut in usu esse possit.* It is al one in effect whether a thing be not done at all, or not rightly and duely done: He is saide not to pay at all,

*Ex. De elec.
No pro defectu.*

Perill of
soules, the
cause vvhy
a time is li-
mitted, for
the placing
of a Pastor
vvithin cer-
taine mo-
neths.

pag. 11.

*ff. De verb. sig-
ni. l. 1. adificandis
§ profecisse.*

A LEARNED MINISTERIE

Perill of sou-
les, cause of
renunciation

Ex. depra-
bend. & vene-
rabilis.

all, which payeth lesse than is his due to pay: And he is said to haue perfected a building, which hath so framed it, that it may be inhabited. And againe, for this purpose, euen to auoid the perill of soules, the Law prouideth, that if anie man through want of foresight of the waightinesse of the office, vnworthily haue taken vpon him the gouernment of anie Church (a burthen too heauie for him to beare) hee may forthwith forgoe and renounce the same, both so to be disburthened himselfe, and that the Church also might be furnished with some able man, to supplie the necessitie thereof.

PRO DEFECTU SCIENTIAE, &c. For want of knowledge a man may desire cession: for whereas knowledge is chiefly necessarie about the administration of spirituall things, and also behoofefull about the charge of temporal things, let it be lawfull for him that hath charge to gouerne the Church in these things, to renounce the said Church, in case he haue no knowlege, whereby he may gouerne the same. For (saith the Lord) thou hast reiected knowledge, and therefore I will reiect thee, that thou be no Priest vnto me. Hence may be gathered two arguments, the one to prooue the necessitie of knowledge in a spirituall Pastour: the other to proue a lawfulness for the renouncing of that, which without great preiudice and hurt to himselfe, and others he cannot retaine.

- 1 Vee that taketh vpon him the administration of spirituall things, must haue the knowledge of spirituall things. Page
 - 2 But he that taketh vpon him the gouernement of the Church, taketh vpon him the administration of spirituall things.
 - 3 Therefore he that taketh vpon him the gouernement of the Church, must haue the knowledge of spirituall things.
-
- 1 It is lawfull for euerie man that taketh vpon him a charge or function, without knowledge howe to gouerne the same charge, to forgoe and forsake the said charge or function:
 - 2 But euerie vnlarned minister hauing a charge, is without knowledge how to gouerne the same his charge:
 - 3 Therefore it is lawfull for him to renounce his said charge.

AND againe: euen to auoid the perill of soules, and that neither age, neither anie bodily disease or impotencie shoulde be anie occasion or hinderance to the people, from hauing and enioying the benefite of a teacher, the lawe prouideth in this case, also as followeth.

7, 91, Peristis:

PETISTI, &c. Thou desirest that for thy age, growing vpon

CONMAVNDED BY THE LAVV.

Page 13.

on thee, and thy bodily infirmitie, thou mightest without aduise, in the same seat where thou gouernest, place one in thy stead: but we (God being our helper) giue counsell to thy holinesse, that for the helpe of reasonable mens soules, (Christ being thy guide) thou do not leaue these which thou obtainest in the Church of *Ments*: but if the Lord, according to thy request, shal giue vnto thee a perfect man, who may take vpon him the care for the health of soules, thou shalt ordaine him Bishop in thy place, and hee shall be in the Gospell committed vnto thee, and in bearing the ministerie of Christ, in euerie place shall visite and comforte the Church of God. All which Canons and constitutions being made and published long sithence, are againe confirmed, ratified, and allowed by latter constitutions, decrees, and ordinaunces, as followeth.

AD REGIMEN, &c. Although we by disposition from a-
boue, vnworthily called to the gouernment of the vniuersal church, as we ought, so haue wee in our desires, that by our indeuour and diligence, fit men be taken to the regiments of Churches and Monasteries, and other Ecclesiasticall benefices, according to the diuine pleasure, and our purpose and intent, which might rule and profite the Churches, Monasteries, and the foresaid benefices to be committed vnto them. And againe.

*Ex. commun. de
Prab. & dig. c.
Ad regimen.*

Page

CVM ECCLESIAE, &c. Forasmuch as the Churches
wherevnto vnfit parsons in knowlege, manners, or age, are preferred
suffer for this cause (as experience teacheth in their spiritualities and
temporalities) oftentimes great detriments: wee willing that this
thing, by the Diocesanes of the places, vnto whom this charge, by
reason of their office appertaineth, be more diligently foreseene:
straightly inioyne, that they themselues more diligently obserue,
and cause inuiolably to be obserued by their subiects, such canon-
icall constitutions as haue hitherto beene published for the prefer-
ring of parsons vnto such Churches, if they will auoid the displea-
sure of God, and the punishment due by the Apostolike sea. And
not onlie these Canons, established and confirmed by the Popes Act
of Parliament, but euen our owne prouinciall constitutions, made
long sithence, for the realme of England, haue ordained and esta-
blished a learned ministerie, and appointed an able and fit state of
Cleargie men, to be had throughout the whole Empire and Domi-
nions of her Maiestie: The tenor of some of which constitutions fol-
loweth. First, *Exigit namq; ars nostra catholica, vt sit vnicus in vna ec-
clesia sacerdos, alijs magister perfectus ordine & habitu, vita sancta, sci-
entia, & doctrina.* For our Catholique religion requireth, that in one
Church

*Clement. de ar. s.
& quali. ep. 1.*

*Ordo constitutus cum
sit ars & exigit.*

Church there be one Priest, otherwise called a perfect teacher, in order and habite, in holie life, in knowledg, and in doctrine. Secondly, *Abſq; magistro præterea ecclesia desolata manet sæpe die, nec persona in ea, nec saltem vicarius perpetuus inuenitur, sed aliquis forse simplex sacerdos: de vita sancta, scientia, & doctrina est ei nimis modica (heu) cura.* Without a maister the Church oftentimes remaineth desolate, hauing neither parson, nor anie continuall vicar, but perhaps some leelie ignorant Priest: but as touching their holie life, their knowlege, and their doctrine (alas) there is too too little care had.

Page 14

*Ordo. const. cum suis
art. § abſq;ue.*

SACER ORDO, &c. A sacred order is to be conferred to him that is most worthie, to the end, that by him the other Sacraments might be ministred. Wherefore, since it is a thing verie perillous, to ordaine men vnworthie, idiots, illegitimate, irregular, persons vnlearned, persons vagarant, and such as haue not anie certaine or true title indeed: We ordaine, that before the conferring of orders, diligent inquisition and search be made by the Bishop of al these things. Which constitution, whether it be obserued, or no, I referre the reader to the directions of the Bishops Canons: Wherein they manifestly tell vs, that they proceede first, and enquire afterwards: that they first giue the Minister a charge, appointing him to teach: and afterwards send him to the Archdeacon or his officials court to learne, as is manifest in their Canons, published in the yeare of our Lord 1571. Title, Archdeacon: and also in the Aduertisements, Title, Ecclesiasticall pollicie. Wherein they haue not attended the meaning and intent of Lawe, which alwaies requirereth, *Us qualitates adſint eo tempore, quo dispositio ſumas effectum.* That qualitties must then be had, when the disposition taketh effect. *Us qualitas reſtis attenditur tempore quo deponis.* As the qualittie of a witnesse is then to be considered, when he is deposed. Again, *Quando queritur de ætate, quæ eſt ſalis, quæ reddit personam inhabilem ad iudicium exercendum, Bene poteſt de hoc queri, ante omne iudicium.* When there is anie question of ſuch an age, as maketh anie parson vnable to exercise iudgement, this ought verie well to be enquired of, befoze all iudgement. In like manner I ſay, considering certaine capablenesse, and ſpeciall abilitie, by vertue of diuers qualitties, wherewith Ministers ought to be indued, is neceſſarily required, to be in them at the time of their ordering, that therefore by lawe, they ought not to be ordained, vneſſe the ſaid qualitties be found in them at the time of ordering: and if anie other prepoſterous order be vſed, that therefore the whole actions are void and frustrate. For where by disposition of lawe, a certaine forme and preſcript order is limited, there if anie inuerſion or prepoſteration be vſed, all is cleane marred. And why?

Page 15

*Bar. in l. ſi quis
poſthumos. § fili
um. nu. 3. ff. de li.
& poſthum. ff. de
minor. l. de ætate
& de ferius. l. 2.*

COMMANDED BY THE LAW.

why? because you follow not the direction of your Letters patents: you exceede the boundes of your commission, and passe the limits of your iurisdiction, the law making you a iudge, to do that, and that, after that, and that manner, you make your selfe no iudge by doing after your owne fancie, thus, and thus, after this, and this manner, without anie commission. And where you were by a publique consent of a publique magistrate, made a publique person, to execute a publique law, you make your selfe a private person, by putting in practise, a private deulse. *Non ergo arbiter quod libet statuere poterit, nec in qua re libet, nisi de qua compromissum est, & quatenus compromissum est.* Therefore an Arbitrer cannot determine euerie thing as he wil, nor in what thing he wil, but onelie that thing whereof the compromise is made, and according to the forme of the compromise.

ff. de recept. arb. l. non distinguens dum § de officio.

Iudex ad certam rem datus, si de alijs pronunciauit, quam quod ad eam rem pertinet, nihil egit. A Iudge appointed to one speciall matter, if he pronounceth anie thing impertinent to the same, he hath lost his labour.

ff. Si a nō compe- scit iud. l. 1.

Maritus id solum exequi debet, quod procuratio emissā præscripsit. A husband that is proctor for his wife, ought onelie to execute that that his prorie prescribeth. And the reason is this. *Fines mandati sunt diligenter obseruandi.* The bounds of a commaundement are diligently to be kept. Neither are the imperiall lawes barren and void of the like holie functions, but exhibit vnto vs the selfe-same prouisions as before: namely, that men holie and religious; men furnished with the best gifts and graces, should be preferred to the sacred ministerie.

ff. de procurat. § maritus.

A learned Ministerie commaunded by the ciuill lawe.

Nemo gradum sacerdotis venalitate pretij mercetur: quantum quisque meretur, non quantum dare sufficit, estimetur. Let no man make marchandise, or buye the degree of a Minister, euerie one ought to be esteemed by his merites, and not by his money.

Cod. de epis. & clericis: l. si quoniam. Authent. de sanctis episcopis § clericos eol. noua.

Againe, *CLERICOS AUTEM, &c.* We do not otherwise suffer Clarkes to be ordained, vnlesse they be learned, and haue a right faith, and an honest life. But if holie rules shall forbid those which are chosen by others, as vnworthie to be ordained, then let the most holie Bishop, procey to ordaine whomsoever he shall thinke meetest. And thus common law, prouinciall law, ciuile law, and statute law (for our statute lawes haue ratified these lawes) pronounce all with one voice, and one consent, that our dumb and silent Curates and stipendaries, haue no approbation or allowance, no fauor or intertainement from them, or by their authoritie. Why? What shall we say then: or how are they allowed then? I wil tel you. Certaine peruerse conceited, and self weening men, soothing themselves, and fostering their dotages and fond affectionous errors, with these rules of law, *Non requiritur summa perfectio*: and that *Sufficit medio-*

Note, that by ciuill lawe a Bishop may not ordaine a Minister, vnlesse the people choose an vnworthie man,

ff. De adil. edi. l. le. sciend. § illud

cris

A LEARNED MINISTERIE

*Eccl. Si quis
vendidit. Ex. cap.
cum Nobis olim
de elect.*

Answer to the
objection of a
competent
knowledg.

etis scientia, A perfect knowledge is not required: and a meane know-
ledge is sufficient. Imagine these our Sir Johns, the verie Altes
of our schooles, hauing approbation from some Bishops, by whome
they haue bin tried and examined to haue (as they terme it,) *Compe-*
tem quamuis non eminentem scientiam, Cōpetent, though not eminent
knowledge, may, notwithstanding the former prouisions, lawfully
take themselves for true Ministers, and be reputed by others for
lawfull possessours, in, and to those places, whereunto they are ad-
mitted? Whereunto I aunswere, that the ignorance of these
termes and wordes of lawe, namely, *Summa perfectio, mediocris, &*
competens scientia, is the ground of this errour. And therefore it rest-
eth briefly to view, what maner of learning and knowledge, by iustice
and equitie of law, may be, and is reputed meane, competent, and
sufficient for him that shall take vpon him a pastorall charge: where-
in also, if our bare mumbling Ministers shal be found culpable, they
are then by definitiue sentence, on the parte and behoofe of the lawe,
not onlie to be adiudged guiltie of voluntarie intrusion into the
right and possession of others, but also to be punished for taking vp-
on them offices, without anie lawfull calling.

Page

The Ministers
must know the
Scriptures, and
preach.

IGNORANTIA MATER, &c. Ignorance, the mother
of errors, is specially to be auoided in the Ministers of God, which
haue taken vpon them the office to teach amongst the people of
God: Let the Ministers therefore be warned to reade the holie scrip-
tures. Paule the Apostle willing Timothie to attend to reading,
to exhortation of doctrine, and alwaies to abide in them. Let the
Ministers therefore know the holie Scriptures, and let all their la-
bour consist in preaching and doctrine: and let them edifie, as well
in knowledge of faith, as examples of good workes. Out of which
chapiter these conclusions may be gathered. First, that ignorance
of the word of God is especially to be auoided of euerie Minister,
as before. Secondly, with what knowledge euerie Minister ought
to be qualified.

- 1 A teacher of Gods word must especially auoid ignorance.
- 2 But a Minister is a teacher.
- 3 Therefore a Minister must specially auoid ignorance.

Neither is here small store of little knowledge, such as where-
with our reading Ministers are furnished, but such whereof ex-
presse mention is made in this decree, and may necessarily be conclu-
ded, thus:

- 1 Whosoener taketh vpon him the office of a teacher amongst the people

Page

COMMANDED BY THE LAW.

Pag. 18.

- people of God, ought alwaies to attend to reading, to exhortation, and to dwell in the same.
- 2 But the Minister taketh vpon him the office of teaching, amongst the people of God.
 - 3 Therefore he ought to attend to reading, to exhortation, and to dwell in the same.
-
- 1 He that taketh vpon him the office of a teacher amongst the people of God, ought to bestow his labour in preaching and in doctrine.
 - 2 But a Minister hath taken vpon him the office of a teacher.
 - 3 Therefore he ought to bestow his labour in preaching, and in doctrine. Wherevnto agree diuers other decrees following.

The reason why a Prior shoulde haue knowledge and be learned, is, for that the lawe chargeth him with cure of soules.

PRIOR AUTEM, &c. Let the Prior in comparison of the rest, next after the Abbot, be a man of power, as well in deede as in worde, that by his example of life, and worde of doctrine, he may instruct his brethren in that which is good, and draw them from euil, hauing zeale of religion according vnto knowlege, both to correct and chastise offendours, and also to comfort and cherish the obedient. Out of which constitution I conclude thus, *à similibus ad similia*, From like vnto like.

*Ex de statut.
Monacho c.
cum ad Mon
nasterium §
prior.*

- 1 Whosoever cherisheth and comforteth the obedient to the faith, and correcteth or improoueth the disobedient, must be mightie in word and deede.
- 2 But euerie Minister ought to cherish and comfort the obedient to the faith, and to correct & improoue the disobedient.
- 3 Therefore euery Minister ought to be mightie in word & deed.

Pag. 19.

And therefore, sithence both in this and in the former constitution, the lawe-maker abused the worde of the Lord, and applieth it to haue people taught false religion, I meane Popish religion, for that was the intent of the decrees. And seeing the Chaplaine of the diuell applieth the truth to establish his diuellish doctrine, and vnder colour of veritie, were so carefull to feede the soules of them that beare his markes, with errour, superstition, and false religion, Popish religion: Seing I saie, the superstitious law maker was so carefull for his superstitious time: Our chiefe Prelates,

B

who

A LEARNED MINISTERIE

who haue not yet abandoned the pollicie of this traitterous law-maker, as perillous for the gouernement of the state of the Loydes household, ouer whom they challenge the gouernement, but with tooth & naile maintaine this his pollicie, to be a pollicie meete for the Loydes seruants to be guided by: what can they answere in defence of their wilfull disloyaltie to the Lord in this behalfe? The lawe which the enemie vnto the Lord did make in the time of Popery, for maintenaunce of popish procurations, popish dispensations, popish ceremonies, popish non residents, popish excommunications, popish visitations, popish payments of oblations, popish courts of faculties, popish licences: the very same lawes, and the selfe-same ordinances, to serue their owne turnes, they turne to the maintenaunce of their prelaties, dignities, and ministeries, vnder the Gospell. A reason of these their doings if they were demaunded, I coniecture would be this: namely, that a law appointed by the aduersarie to abuses, hauing good grounds, may be applied to good vses: and that it is not executed now any more as the popish law, but as the law appertaining to her Highnesse crowne, and regall dignitie, being established by the high court of Parlement. Wherein, touching the former, they saide somewhat, if the matter did consist, *inter pares*, and not the most highest, as it were accusing him, that he had not dealt faithfully in his fathers household, gining them as perfect a law for the gouernement of his household by discipline as by doctrine: And yet by their leaues, why then should not this law of the enemie last specified, may rather now their owne law, hauing better grounds, and better reasons for the validity thereof, than the lawes mentioned before, concerning their prelaties and dignities, &c. Why (I say) should not this be as auailable with them now, to exhort the people vnto the truth, as it was with the idolaters, to exhort vnto lies: to dehort now from popery, as it was then from the Gospell: to instruct men now in the true knowledge of Christ, as it was then to teach men the knowledge of Antichrist: to correct offendours now against pietie and holie religion, as it was then to correct contemners of impletie and prophane religion: to comfort and cherish the obedient now to the faith, as it was then to comfort and cherish the disobedient to infidelitie, and Paganisme: Touching the Acts of Parlement: thence they challenge by them immunitie, for the confirmation of their abuses: it were requisite for them to giue the seruants of the Loyde leaue a little to challenge as great a priuiledge, by the same, for the stablishment of the right vse of things through their default yet amisse and out of frame with vs. If the cause of the former, in truth and veritie, be as good as the cause of the latter, in shew and semblance onely: yea if it be

COMMANDED BY THE LAW.

Fig. 21.

be far better (for theirs in truth is starke naught) & the law authorize for the one indeed that that the same law in appearance onlie approueth for the other. If for their fellow seruants sakes, they will not be more fauorable vnto their Lord & maisters cause: yet were it expedient for the to be intreated to be more fauorable to the iustice & equitie of their owne laws, than continually, by placing vnable men in the ministry, thereby, as it were, accusing the same of imperfection, and insufficiencie: as though it tolled anie such thing, when as in truth, it doth nothing lesse, euermore speaking as followeth.

VERVM QVIA, &c. But because after Baptisme, amongest other things, the propounding of the worde of God, is most necessarie vnto saluation, whereby the hearers hearing that which is our victorie, be instructed in the faith, be taught to flee things to be auoided, and to followe things to be followed, by which, such as by sin are fallen, do rise againe, wee haue great care, that such brethren be promoted, which by sweete oile of the worde may comfort our subiectes, may forbid them sinnes, may nippe the wounds of their sins by reprehension, and may prouoke and induce them to purge and wipe their offences with bitterness of repentence. Vnto the execution whereof, the knowledge of the lawe of God is required, the integritie of life and soule is to be had. For it is written: Thou hast refused knowledge, and I will refuse thee, that thou be no Priest vnto me, because the lips of the Priests keepe knowledge, and they search the law at his mouth. For otherwise he can not, as his duerie is, discern betweene sinne and sinne, &c. All which decrees of themselves, are plaine and sufficient inough, to impugne and ouerthrowe all opinions whatsoever vainely conceived against the prouision, and validity of Law, authorizing or ratifying (as it is vntruely surmized) either anie vnpredicating and vnlearned ministry, or anie vndiscreet, vn honest, or vngodlie persons, to execute anie offices in the Church. For by these decrees (established first by the enimie of true religion, for the planting of his superstition, but now turned by our policie from that vse, and made a law for the gouernement of the Church) are so many speciall proprietie of a true pastour, so substantially pointed out, that none, without too too great immodestie, may in anie wise affirme the law to be defectiue herein. Wherevnto our English constitutions and synodals prouincial may be annexed, as directly and euidently prouing, with what manner of competent and conuenient knowledge euery Minister ought to be adjoined.

Fig. 22.

PRÆCIPIMVS (saith the prouinciall constitution) VT QVILIBET Sacerdos plebi præsidens, quater in anno: hoc est, semel in

Extra, Cum: de privilegiis, c. inter cunctas § verum quia

A LEARNED MINISTERIE

*Prougn. lind.
de offi. Archi-
pres. ignorat
in succedo-
tion.*

qualibet quarta anni, die una solemnī vel pluribus, per se, vel per alium exponat populo vulgariter, absque cuiusque subtilitatis textura fantastica 14. fidei articulos, decem mandata Decalogi, duo præcepta Euangelij, &c. Wee commaund, that euerie Priest, president ouer anie people, foure times euerie yeare, that is to saie, euerie quarter of the yeare, in one or more solempne daies, by himself, or some others, expound vnto the people in their vulgare tongue, without anie subtiltie, the 14. Articles of the faith, the tenn Commaundements, the twoo precepts of the Gospell, &c.

Quarter
sermons frō
whence
they came.

Heere are you to see the particularities laide forth, wherein euerie Minister ought to be exercised, how often, how plainly and sincerely he ought to teach. Wherein our fathers in time of ignorance and superstition, were more zealous, than we in these daies of the true light and knowledge of the Gospell. For from hence quarter Sermons, now amongst vs, haue crept in, and had their beginning, though now fostered with greater corruption, than in those former daies they were. For prooffe whereof, the Reader shall vnderstand, that these wordes, *Semel in qualibet quarta anni, die una solemnī, vel pluribus, per se, vel per alium.* In euerie quarter of the yeare, in one or more solempne daies by him selfe, or some other haue not this meaning, that it was sufficient for the president of the people, absolutely by an other, foure times in the yeare onelie, to preach and to instruct the people, as it is nowadaies amongst vs practised: but the meaning is, that the Articles of the faith, the tenn Commaundementes, the twoo precepts of the Gospell, &c. should indeede of them be expounded, and made known vnto the people foure times in the yeare, and that in foure seuerall solempne daies, if it were so possible. But because the law-maker did foresee, that it was impossible, that with anie fruite, this so great a worke, could be finished: therefore both to take awaie all cauilling from the people, who might thinke it sufficient to haue quarterly Sermons: and also, to the end the Pastour might be kept in a continual exercise of his dutie, this *Pluribus* was added, to the intent, that the whole doctrines might once euery quarter, be whollie expounded: So that *semel* is not heere taken for *simul*, that these doctrines should once euery quarter all together, and at one time alone be taught, but that they should be once euerie quarter at particular and seuerall times: particularly, and seuerally be taught: for so, though they be at many times particularly taught, yet in the whole, they may be said to be but once in a quarter whollie taught. And these wordes, *per se, vel per alium*, by himselfe or by an other, haue an other manner of exposition than a great manie vnderstand or think them to haue. For

Glossa. ibid.

CONMAVNDED BY THE LAVV.

it is commonly thought sufficient, that these words, *per alium*, (by another) be understoode, in case the Pastor himselfe be altogether ignorant. But the meaning thereof, onelie is thus.

CVM CONTINGAT quod Episcopi propter suas corruptiones multiplices, vel inualitudines corporales, aut hostiles incurfus, seu occasiones alias (ne dicamus defectum scientie, quod in eis reprobandum est omnino, nec de cetero tollerandum) per se ipsos non sufficiunt ministrare verbum Dei populo, &c. If the Bishops, for some necessarie businesse, or bodilie infirmitie, or hostile inuasion, or other occasions (wee wil not saie for want of learning, which is to be reprooued in them, and heereafter not to be tollerated) can not by them selues minister the worde of God vnto the people, that then it shall be lawfull for him to choose some other fitte person to supplie his roome.

Page 24. A Bishop ought personally to visite his Diocesse, and an Archdeacon his Archdeaconrie, and yet neither of them both ought to visite by an other, vnlesse he be *Infirmus, vel aliter legitime impediatus*, quod minus possit personaliter visitare, Diseased, or haue some other lawfull impediment, so that he can not visite in his owne person. And it is concluded in the case of residence, that one bound to keepe residence, must keepe it by himselfe. *Et quis debet residensiam facere per se, non per alium: & nisi feceris, potest priuari.* Moreover, it is directly forbidden, that the office of preaching should be deputed to anie other.

CAETERVM SALVO, &c. But sauing the Legate of the Apostolike sea, let it be lawfull to no man, to whome it shall be commaunded to preach the crosse, to excommunicate, or absolue anie, heereafter to committe the same things to others: because not anie iurisdiction, but rather a certaine ministerie, is committed vnto him in this behalfe. All which things are more at large manifested by the last chapter of the former title in Lindwood: where the Priests are commaunded to be diligent teachers of Gods word, that they be not accounted dumb dogges. The words of the Chapter are these.

PRÆSENTIS CONSILII, &c. By the finall determination of this present counsel, we haue straightly inioyned, that Parsons and Vicars labour to informe the people committed vnto them, with the foode of Gods word, according to the measure that shall be inspired vnto them, that they be not worthily adiudged dumb dogges, seeing that with holesome barking they chace not awaie the biting of spirituall VVolves from the Lords sheepefold. And the reason of this prouincial is deriued fro another decree.

INTER CAETERA, &c. Amongest other things be-

A LEARNED MINISTERIE

*Extra de off.
ind. ord. c.
inter cetera.*

longing to the saluation of Christian people, the fooðe of the word of God is knowne to be most necessarie for them, because that as the bodie with materiall, so the soule with spirituall fooðe is nourished: for man liueth not by bread onelie, but by euerie worde that proceedeth from the mouth of God. And that this, and the former, might be diligently executed, to meete with the carelesnesse of Pastours in doing their duties, there is a speciaall ordinance, made for the inquisition of the offenders herein, as followeth.

Page 26

*Iohan. Pecs
ebam de offic.
archi.*

DE PUBLICATIONE ARTICVLORVM, &c. Touching the publication to be made of such articles, whereby a man forthwith doth incurre sentence of excommunication, let the Archdeacons make diligent inquisition, and as often as they shal find the Elders, not to haue preached, or published at the times appointed the morall instruction of the 14. Articles of faith, the 10. commandments of the decalogue, the 2. commandments of the gospel, &c. so often let them rebuke them, and by chastisement, and some canonicall punishment, compel them to supplie that which rashly they haue omitted. Hence may aptly and necessarily be inferred, that he may be said to haue a competent knowledge, that hath knowledge to preach: otherwaies not preaching, should not be punishable. And to this ende tendeth that which is written before: namely, *Exigit ars nostra catholica, &c.* Our catholike religion requireth, that in one Church, be one perfect teacher, in knowledge and doctrine. And as the glose in the same place saith: *Absit ergo quod sic perfectus sit, ut ad literam dicere possis illud Hier: cap. 1. a, a, a, Domine Deus, nescio loqui, quia puer ego sum.* God forbid, that he should be so perfect, as, that by rote he were able to say, a, a, a, Lord God beholde, I can not speake, because I am a Childe: but this perfection ought to be such, as the glose telleth you in the same place, in these wordes.

Competent
knowvledge
is a knowv-
ledge to
preach.

*Glos. ibi. ver.
scientia.*

*Glos. ibi. ver.
absque magis
pro.*

AD MAGISTRVM, &c. To a Maister. or teacher pertaineth that which is written in the sixt of VVisedome, I will bring wisdom into light, and will not keepe backe the trueth. And in the same booke the 7. chapter. As I my selfe learned vnfaignedly, so doe I make other men partakers of her, and hide her riches from no man, that that may be verified of him, which is written in the 28. Iob. He searcheth the deapth of the foudes, that is, the secrets of the Scriptures: and the thing that is hid bringeth he to light. And Rebuff affirmeth, that *Penitus illiterati dicuntur, qui nesciunt officium facere, ad quod tenentur.* They are saide, to be altogether vnlearned, which cannot perfoyme the duetie whereto they are bound. And the glose upon the lawe in the Code saith, that they be not Deanes, which hasten to be called Deanes, and be

Page 27

not:

COMMANDED BY THE LAVV.

not Deanes, when they do not the office of Deanes. Her maiestie also by her instructions hath ratified and commaunded the same: for as much (saith she) as in these latter daies manie haue bene made Priests, being children, and otherwise vterly vnlearned, so that they could reade Mattins or Masse: the Ordinaries shall not admit anie such to anie cure, or spirituall function. Wherefore, in as much as by these ordinaunces it is euident, that euerie Minister to whome cure of soules is committed, ought not to erre or be ignorant in the word of God, but ought alwaies to attend to reading, to exhortation, to preaching, to doctrine, to edification, to be of power in word and deed, to instruct, to informe, and to comfort, to rebuke, to refoyme, and to correct, to expound the Articles of faith, the tenne Commandements, and to teach other holie doctrines, concerning the loue of God, and the loue of our neighbours, to be able to make others partakers of the riches of wisdom, and to bring wisdom into light, and not to keepe backe the truth: In as much as I say, as by the lawes of our gouernement, the Ministers of the Gospell ought to be indued with such qualities, and beautified with such graces: Let euerie one cease to maintaine anie competencie, or conueniencie of learning to be in our dumb and vnpreaching ministers: For let them reade, and reade till their lippes be tired, and their eyes blinded, they shall notwithstanding by their bare reading, ordinarily be no instruments of the holie Ghost, to worke faith in the hearers. Nay, they robbe the holie Ghost of his proper honour and office, whereby he inspireth the preachers of the Gospell, with the spirit of wisdom in good measure and proportion, to breake vnto the hearers, meete and conuenient foode for their soules. For howe shall they call on him, in whome they haue not beleued? And howe shall they beleue in him, of whome they haue not heard? And howe shall they heare without a Preacher? And how shall they preach except they be sent? As it is written, How beautifull vpon the mountaines are the feete of him, that declareth and publisheth peace? That declareth good tidings, and publisheth saluation, saying vnto Sion, thy God reigneth?

And as touching the Idoll Ministers themselves. Besides those reasons, there remaine manie other verie necessarie for them diligently to looke into, that so vnderstanding their owne desperate estate, they may more willingly, and duefully peelee themselves to be reformed, and to shake off those ragges vnder which they nowe shrowde themselves. They are diligently to hearken vnto the Canon of Gregorie against them. *Si quis neque sanctus pollens moribus, &c.* If anie, neither adorne with holie man-

l. q. 1. c. Si quis neque.

A LEARNED MINISTERIE

ners, neither called by the Cleargie and people, or constrained by compulsion, through loue of his owne heart, or filthie intreatie of his lippes: or for fellowship, or seruilitie, or fraudulent rewarde, and not for gaine of soules. but puffed vp with desire of vaine-glorie, shall take any Bishoply or Priestly dignitie vppon him, and shall not, euen of his owne accord, leane the same againe in his life time, but suffer sodaine death to take him vnrepentant, without all doubt he shall perish for euer. Secondly, *Ordo non solum gratia suscipientis, sed etiam aliorum conferuntur.* An order is not conferred, for his sake onelie that taketh it, but also for other mens sakes. A Minister is not called to minister to himselfe, but to others: to labour for himselfe, but for others: to be serued himselfe, but to serue others: And the Lorde came not to be fedde, but to feede others. Thirdly, *Periculosum est ipsi ordinato quia tanquam mercenarius se ingerit, non ut pastor.* It is dangerous to him that is ordained, because he rusheth in as an hireling, not as a shepheard. Fourthly, *Periculosum est subditis, quibus sacramenta ministrare, & quos curare deberet, ne diuersimode inficeret eosdem moribus, & exemplo.* It is perillous for the people vnder him, to whome hee ought to minister the Sacraments, and whome hee ought to heale, that he diuersly infect them not, with his manners and examples: for that, *Diluere aliena peccata, non valet is, quem propria deuastant.* He cannot put away other mennes sinnes, whome his owne sinnes deuoure. And againe, *Periculosum est decentia ecclesie, in scandalo populari.* It is dangerous for the Decencie of the church, to be in anie publike flaunder or offence. Againe, *Malus praelatus dicitur lupus rapiens pradam.* An euil ppelete is saide to be a wolfe, rauening his prae. He is saide to be, *Canis impudicus, propter defectum regiminis.* A shamelesse dogge, for want of gouernement. Hee is saide to be, *Coruus, propter peccatorum nigredinem.* As blacke as a Rauen, for the foulness of his sinnes. Hee is saide to be, *Sal infamatus, ad nihilum proficiens.* Unsauior salt, profitable for nothing. Hee is saide to be, *Porcus, A Swine.* Hee is saide to be, *Capo, A Capon,* because, as a Capon can not crowe, no more can a dumbe Ppelete preach. And to conclude, *Praelatus, qui in doctrina mutus est, non est verè praelatus, cum officium praelati non exerceat, &c.* A Ppelete which is mute in teaching, is not in trueth a Ppelete, in so much as hee exerciseth not the office of a Ppelete. These Canons and Constitutions, not contrariant or repugnant to the Lawes, Statutes, or Customes of this realme, neither derogatorie to her Highnesse Crowne and dignitie, and therefore authorized by Act of Parliamt, ought to haue bene better

Glos. in consis.
in. Ordo. de
seruati. in ore
dm ver. ad.

Sz. distinc.
nihil.

2. q. 7. Qui nec.

2. q. 7. Non es
mnis.

4 C. Dist. in
mandatis
Glos. lund. de
offic. Archie
pres. c. fm. v.
caus.

Pag. 18

Pag.

COMMANDED BY THE LAW.

Better knowen, and better executed, by our chiefe Prelates, then by the space of these 25. yeares they seeme generally to haue bene. But yet besides these former decrees, lawes and ordinances, and the seuerall reasons, principles, and maxims, wheredpon they were first grounded, there remaineth somewhat more behind, diligently to be considered: the which thing the more earnestly every man shall rightly weigh, the more may he be astonished. A thing done in Israell, at the doing whereof it is a wonder, that the eares of the hearers tingle not, and the very haire of the heads of the standers by stare not, for feare least the Lord in his righteous iudgement, should execute his terrible vengeance vpon them. Thus standeth the case, some pastoral church, or churches being destitute of a Pastor, or Pastors, to feede the people, a solemn assembly and conuocation of the chiefe of the gournours of the Church must be gathered together, and that not in an angle of a poore country village, but in the chiefe citie of the Diocese, and that not on a workeday, but either on the Lords day, or on some other of their owne festiuall dayes, and that for no small matters, or to no small purpose, but euen to present and offer vnto the Lord an holy sacrifice, and to call vpon his most holy name: To present (I say) vnto the Lord, a present meete and acceptable for his maiestie, euen men meete to serue him in his spirituall warres, and to be Pastors to feede his people with spiritual foode of his holy word, men meete to take vpon them the most highest and most noblest callings, that he hath appointed to the sonnes of men, the office and dignitie of the preaching of his holy Gospell This (I say) is the action wherof deliberate consideration is to be had, and whereof followeth a discourse, and wherein, when all is done (as it is imagined) that can be.

Pag. 30. Done, yet in truth there is nothing so, nor so done: they doe but flatter themselves, blear the eyes of others: and which is most execrable, as it were mocke and delude the Lord to his face. Well then, let vs consider what is done herein.

In the time of that vertuous King, Edward the first, an order and forme was appointed by act of Parliament, for consecrating Archbishops, and Bishops, and for the making of Priests, Deacons, and ministers: Which statute is reuiued, and the same order and forme approved, in the eight yeare of his most excellent raigne. The words of the statute are these.

(And that such order and forme, for the consecrating of Archbishops, and Bishops, and for the making of Priests, Deacons, & Ministers, as was set forth in the time of the sayd late King, and authorized by Parliament, in the fifth and sixth yeare of the sayd late King, shall stande, and be in full force and effect, and shall from henceforth

A LEARNED MINISTERIE

for: he vsed and obserued, in all places within this Realme, and o-
ther the Queenes maiesties dominions and countries.] The title of
the booke is this.

Ordering of
Deacons.

(The forme and manner of making and consecrating Bishops,
Priests and Deacons.) And first to intreat of Deacons, according to
the forme of the booke, you shall vnderstande, that in the order and
forme of making Deacons, three things principally are to be obser-
ued: First, the qualities requisite to be in him that is to be made a
Deacon: Secondly, the circumstances in making him a Deacon:
And thirdly, the proper duetie and office belonging to him, that is
made a Deacon. Touching his qualities, they must be such, as were
requisite for the same. First, he must be a man of vertuous conuer-
sation, and without crime: Secondly, he must be learned in the Latine
tongue: Thirdly, he must be sufficiently instructed in the holy Scrip-
tures: Fourthly, he must be a man meete to exercise his ministerie
duely: Fifthly, he must beleene all the Canonically Scriptures: Sixt-
ly, he must be diligent in his calling: Seuenthy, he must be inward-
ly moued to that office, by the holy Ghost. And as touching the cir-
cumstances. First, he must be called. Secondly, tried. Thirdly, exami-
ned. Fourthly, he must be twentie one yeares of age, at the least: he
must be presented by the Archdeacon, or his Deputie. Fifthly, he must
be made on a Sunday, or holy day: Sixthly, he must be made openly
in the face of the Church: where must be an exhortation made, decla-
ring the duetie and office, as well of the Deacons towards the peo-
ple, as of the people towards the Deacons. Lastly, touching the office
committed vnto him, it is: First, to assist the minister in diuine ser-
uice: Secondly, to reade holy Scriptures and Homelies in the con-
gregation: Thirdly, to instruct the youth in the Catechisme.

Page 3

Fourthly, to search for the sicke, poore and impotent
of the parrish, and to intimate their estates,
names, and places, to the Curate, that
they may be relieved by conuenient
almes.



The forme of ordering Priestes.



Concerning the making of Ministers, not onely all those thinges before mentioned in the making of Deacons, but other circumstances and solemnities are required also: these demands and answers following, must be made and given.

Bishop.

Do you thinke in your heart, that you be truly called, according to the will of our Lord Iesus Christ, and the order of this Church of England?

Answered.

I thinke it.

Bishop.

Be you perswaded that the holy Scriptures containe sufficiently all doctrine, required of necessitie, for eternall saluation, through faith in Iesu Christ? And are you determined with the said Scriptures, to instruct the people committed to your charge, and to teach nothing (as required of necessitie to eternall saluation), but that you shall be perswaded, may be concluded and proued by the Scripture.

Answered.

I am so perswaded, and haue so determined by Gods grace.

Bishop.

Will you give your faithfull diligence, alwayes to minister the doctrine and sacraments, and the discipline of Christ, as the Lord hath commanded, and as this realme hath receaued the same, according to the commaundement of God, so that you may teach the people committed to your care and charge, with all diligence to keepe and obserue the same.

Answered.

I will.

In these two answers and demands last specified, are principally contained two things. First, the Minister chargeth himselfe, by a solemne vow, to teach and instruct the people committed to his charge, with the doctrine of holy Scriptures. Secondly the Bishop by vertue of the order and foine appointed by act of Parliament, bindeth him, as well to minister the Discipline of Christ, within his cure, as the doctrine and sacraments of Christ, as the Lord hath commaunded, & as this realme hath receiued it, according to the commaundements of God. And therefore every Minister, by vertue of this statute law, may as wel admonish, denounce, and excommunicate offenders with-

The Discipline of Christ commanded by Parliament.

in.

A LEARNED MINISTERIE

in his charge, as a Bishop may within his Diocese, the words are copulatives: and therefore. *Non sufficit alterum, sed oportet utrumq; fieri.* It is not sufficient to doe one, but both. And these words befoze rehearsed. (Will you giue your faithfull diligence, alwayes to minister the Doctrine and Sacraments, and discipline of Christ, as the Lord hath commaunded, and as this Realme hath receiued the same, according to the commaundements of God?) haue in them two speciall points to be considered: one, touching the doctrine and sacraments of Christ: the other concerning the discipline of Christ: out of which two branches, proceede two other questions. First, whether euery minister ought not to exercise the Discipline of Christ, by force of this demand and answer, as well as the doctrine and sacraments. Secondly, whether these, namely the doctrine, sacraments, and the discipline, be to be ministred simply, as the Lord hath commaunded, or els whether they be to be ministred onely, as this Realme hath receiued the same, without the commaundement of God? For these words, (according to the commaundements of God) are but *Synonima*, vnto those which went befoze (*Viz.* as the Lord hath commaunded) and so signifie but one thing. To the first his owne promise, to the bishops interrogatorie, bindeth him as well to minister the Discipline, as the doctrine and Sacraments. To the second, if you answer, that the doctrine and Sacraments, and Discipline of Christ, are simply to be ministred, as the Lord hath commaunded, then it must needes follow, if this Realme hath receiued the same, according to the commaundement of God, that the lawe of the Realme, and the Lawe of God commaund both one thing, and so by both Lawes, the doctrine and Sacraments, and Discipline, are to be ministred, as the Lord hath commaunded. But if you shall say, that these things are to be ministred onely, as this Realme hath receiued the same, though not according to the commaundement of God: then these words of the article following, *viz.* (As this Realme hath receiued the same, according to the commaundement of God) convinceth you of a slanderous tongue, against the whole state and Church of God. For hereby you accuse them of great impietie and vngodlinesse, and attaine them of high treason, to the maiestie of God, as though the intent of the whole state were to haue the doctrine and Sacrament, and Discipline of Christ, ministred according to the commaundements of God: in case the lawes of the Realme, had so receiued the same, and not otherwise: And so to haue restrained the commaundements of God, by the lawes of the Realme, and so to haue concluded an impossibilitie, limiting and restraining the greater by the lesse; and a lawe most perfect, by a lawe vnperfect, and not rather the contrary, to haue restrained in

COMMANDED BY THE LAW.

25. 75.
 deede the lesse by the greater: the lawes of the Realme, by the commaundments of God: an vnperfect law; the law of man, by a most perfect and absolute law, the law of the most Highest: which is manifest by a threefold repetition of the one, as the Discipline of Christ: Secondly, as the Lord commaunded: Thirdly, according to the commaundment of God: where the lawes of the Realme are but once onely mentioned. Again, in the ordering of Archbishops, and Bishops, the Archbishop demaundeth of the Bishop this question. (Will you maintaine and set forward, as much as shall lye in you, quietnes, peace, and loue, amongst all men: and such as be vnquiet, disobedient, and cryminous, within your Diocesse, correct, and punish, according to such authoritie, as ye haue by Gods word, & as to you shall be committed by the ordinance of this Realme? Doe these words, (and as to you shall be committed by the ordinance of the Realme) restraine and lymit these words which went before, to correct, and to punish according to such authoritie, as ye haue by Gods word.)

Page
26.
 Surely, they can haue no such interpretation. For the meaning of these wordes is, that euery Bishop should by the ordinance of the Realme, haue his office committed vnto him: and once hauing his office so committed vnto him, by the ordinance of the Realme, then to correct and punish, according to such authoritie, as he hath committed vnto him by Gods word, and as he is appointed by the ordinance of the Realme to execute. Neither hath the Bishop any authoritie giuen him by these words, to correct, or punish any, otherwise then the lawes of God permit him, though the lawes of the Realme were not agreeable to the law of God. And in like case I conclude, that a Minister bound, as you haue seene before, to minister the Discipline of Christ, ought so to minister the same, as the Lord hath commaunded, though the lawes of the Realme should not haue receiued the same. For no Discipline in truth can be sayd to be the Discipline of Christ, vntlesse it be in deede ministred, as the Lord Christ hath commaunded the same should be ministred. And therefore, as no Bishop may, or ought to correct or punish any transgressor, any otherwise then according to the lawes of God: so no minister ought to exercise any discipline, then such as the Lord Christ hath commaunded. If it be alleadged, that our Discipline, vsed in the Church of England, be in very deede the very same Discipline which the Lorde Christ hath commaunded, (which is utterly vnttrue) as appeareth. First and principally, by the word of God Secondly, by the discourses written, betweene the learned, on that behalfe. Thirdly, by the Discipline practized by all the reformed Churches: and lastly, by Maister Nowell his Catechisme, commaunded generally by the Bishop to be taught vnto the youth of the

A LEARNED MINISTERIE

the Realme, in all schooles of their Diocesse: yet notwithstanding, the Minister, contrary to a vow made by him, at the commaundement of his Ordinarie, appointed thereunto by lawe, is very iniuriously dealt with, for that he is not permitted to exercise any discipline at all: our Bishops and Archdeacons, challenging vnto themselves a principall prerogative, to punish all malefactors, within their severall iurisdiccions. An other reason, that this statute hath appointed, as well the discipline of Christ, as the doctrine and sacraments to be ministered, as the Lord commaunded onely, and none otherwise is this: namely, for that this statute was made, to reforme as well the disorderd discipline, vsed in the time of popery, amongst the popish idolatrous Priests: as it was to reprove their false doctrine, and propbation of the sacraments: so that neither the one, neither the other, should be ministered by the Ministers of the Gospell; for otherwise, this branch of the statute, should ordaine nothing, and so contrary to the nature of a lawe, be *Lex absurda*, an absurd lawe. And therefore, what open wrong, and intollerable iniurie is offered the Saints of God, and loyall subjects to her Maiestie, calling for discipline, at the chiefe Prelats hands, commaunded by the Lord, and in truth established, by the lawes of her Highnesse Empire: euery indifferent man may easily discern. It followeth in þ booke of making of Ministers.

Bishop.

Will you be diligent to frame and fashion your owne selues, and your families, according to the Doctrine of Christ, and to make both your selues, and them, as much as in you lyeth, wholesome examples, and spectacles of the flocke of Christ?

Answer.

I will.

Bishop.

Will you maintaine and set forwarde, as much as lieth in you, quietnesse, peace and loue, amongst all Christian people, and specially amongst them that are, or shall be committed to your charge?

Answer.

I will

In the ende, when he layeth on his hands, he sayth to euery one: be thou a faithfull Dispensor of the word of God, and of his holy Sacraments. And againe: Take thou authoritie to preach the word of God, and to minister the holy Sacraments. Which action & speeches of the Bishop, are to be wel wayed, and considered. The words which the Bishop pronounceth: [Be thou a faithfull Dispensor], &c. (Take thou authoritie to preach) are wordes appointed him by the whole State, to be pronounced. What? was it, trowe you, the meaning of all

COMMANDED BY THE LAW.

all the States and Nobles of the Realme? or was it our most excellent Soueraigne, the Queenes Highnesse her pleasure, to haue enacted by Parlement, that a Bishop should commaund an Apothecarie, not exercised at all in holy Scriptures, and altogether vnable to teach, to be notwithstanding a faithfull dispensoz of the word of God, and to take authoritie to preach: No, no, they very well knewe, that the outward sound of the Bishops words, in the eares of such a man, could not worke any inward grace, or giue any inward vertue, to the performance of so high a calling, or of so holy a function. And therefore as it becommeth a true and loyall subiect, I dare not for my part, so dishonourably conceiue of their wisdomes: much lesse, I take it, should the Bishop so disloyally abuse their credite and authoritie. Was their intent and purpose, trow you, that the Bishop by these his demaunds, and the Minister by these his aunsweres, should not bind the Minister himselte, to performe by himselte this duetie to preach, but that the same should be done by a third person? I trowe no. For my Maisters and Doctors of the Canon and Ciuill Lawe, Burgeses in the house of Parlement knowe, that *Promissio facti alieni inuisibilis est, & quod si testator inderit aliquem in certum locum abire, vel liberalibus studiis imbui, vel domum suis manibus extruere vel pingere, vel uxorem ducere, per alium id facere non potest, quia haec omnia testatoris voluntas in ipsius solius persona intelligitur conclusisse.* A promise made of an other mans fact, is vnprofitable, and that if a Testator shall will any to goe to a certaine place, or to be furnished with the liberall Sciences, or to builde an house, or to paynt a table with his owne hands, or to marry a wife: that he can not doe any of these things by an other man, because the will of the Testator hath concluded all these things onely in his owne person. Was their meaning, that the Bishop pronouncing these words. (Be thou a dispensoz) was their meaning, I say, by those words, to haue the Bishop commit the office of reading Homilies to a Minister, or to iudge reading of Homilies to be preaching? No, no: Their proceedings appeare to be of greater wisdom, knowledge, iudgement, discretion, and godlinesse. They appointed, by the same their consultation, three kindes of offices to be in the Church: Deacons, Ministers, and Bishops, appointing severally, to euery officer his severall dueties, and hath expressely appoynted reading Homilies to be the office of a Deacon. For in the ordering of Deacons, the Bishopp, by vertue of the Statute, pronounceth these wordes vnto the Deacon. (It pertayneth to the office of a Deacon in the Church, where he shall be appoynted, to assist the Priest, in diuine seruice, and specially when he ministrereth the holy

*Inflau de inno
silistipu § si
quis.*

A LEARNED MINISTERIE

the holy Communion, and to helpe him in the distribution thereof, and to reade holy Scriptures, and Homilies, in the congregation,) &c. I take it, and hold it for a principle, that the Bishop hath no authoritie, by his Lordship, to alter or transforme an act of Parliament, and therefore I take it, that I may safely conclude, without offence to his Lordship, that he can not by law appoint any Minister, to reade any Homilies in any Church, Statute lawe is *Stricti Iuris*, and may not be extended.

What will you then by law positue, barre reading of Homilies in the Church? No. But I would haue the Law positue obserued, and so barre reading of Homilies from a Minister, because the Law positue hath appointed that office to a Deacon. For it is not lawfull for one private man, and fellow-servant, to transpole from his fellow-servant an office committed vnto him by publike authoritie.

And it is verily to be thought, the Bishop himselfe, will challenge as much vnto himselfe, by this statute, from the Minister; and plainly tell him, that by this statute, he alone hath authoritie to make Deacons, and Ministers, and to governe them: and that therefore it becometh not a Minister, to be ordered otherwise, then according to the forme of the booke, and no otherwise to preach, then as he shall be licensed therevnto, by him the Bishop. As touching the Injunctions, the aduertisements, and the articles of religion, wherein mention is made sometimes, that Parsons, Vicars, and Curates; sometimes that the Minister shall reade Homilies, they may easily be reconciled by this statute. For the Injunctions set forth, primo Elizabeth. the aduertisements and articles set forth, septimo Elizabeth. and this statute, being made 8. Elizabeth. and so since, doth bound and limit the meaning of the Injunctions, and aduertisements. For whereas before, the names were vsed in them confusedly; this statute doth aptly distinguish them, applying properly every proper office to his proper officer, and bringing those names before recited vnto two principall heads. For though there be Parsons, Vicars, Curates, and Ministers, generally in the Church, of whome mention is made in the Injunctions, articles, and aduertisements: yet these, and every one of these, must by this statute, be either a Deacon, or a Minister specially. And being a Deacon, he ought to execute the office of a Deacon, and being a Minister, the office of a Minister, by this statute: and so a Deacon, if he be a Parson, Vicar, or Curate, he must execute the office of a Deacon onely; that is, he must read the Scriptures, and Homilies by this statute. Likewise, a Minister, if he be a Parson, Vicar, or Curate, he must minister the doctrine, and sacraments, and discipline of Christ: he must be a dispensor of the word of God; and he must preach

COMMANDED BY THE LAW.

pag. 41.

preach onely, and yet in saying that he must preach onely, I doe not exclude him from doing those other Duties, *Sine quibus illud fieri non potest.* Without the which he cannot preach, as from reading the scriptures, and praying with the people: but I exclude him from those things onely, which are not incident to his office, as from reading of Homilies: for he may preach, and neuer read Homilies: but he cannot preach profitably, vntill he read the Scriptures, and vse prayer. What, will you then by law positine barre all Ministers, that be Parsons, Vicars, or Curates, and yet cannot preach, from reading Homilies? I answer, that whether they can preach, or cannot preach. *Curas lex.* Let the law runne: and let him that hath defiled his hands, by laying them vpon such a one, contrary to the commaundement of the Lord, and contrary to the lawes of his gouernour, vnder whome he liueth, and by whome he hath his preferment, holde vp his guilty hands vnto the Lord for mercy, in the day of the Lord, and fall downe before his Highnesse, for his gracious pardon, in so abusing his Highnesse lawes. And to the ende, you may see more apparantly, these two offices, by the law it selfe, to be thus distinguished, I haue set downe the Bishops words, pronounced by vertue of the statute, vnto the Ministers, as followeth. [You haue heard brethren, as well in your priuate examination, as in the exhortation, and in the holy lessons taken out of the Gospell, and out of the writings of the Apostles, of what dignitie, and of how great importance this office is, whereunto ye be called: & moreover, I exhort you in the name of our Lord Iesus Christ, to haue in remembrance into how high a dignitie, and to how chargeable an office ye be called: that is to say, to be the messengers, the watchmen, the Pastors, and the stewards of the Lorde, to teach, to premonish, to feede, and prouide for the Lordes familie, to seeke for Christ his sheepe, that be disperſed abroad, and for his children which be in the midst of this naughty world, to be saued thorough Christ for euer: haue alwayes therefore printed in your remembrance, how great a treasure is committed to your charge, for they be the sheepe of Christ, which he bought with his death, and for whome he shed his blood: the Church and Congregation whome you must serue, is his spouse and his body, and if ye shall see the same Church, or any member thereof, to take any hurt or hinderance, by reason of your negligence; ye know the greatnesse of your fault, and also of the horrible punishment which will ensue. Wherefore consider with your selues, the ende of your ministerie towards the children of God, toward the spouse and body of Christ, and see that ye neuer cease your labour, your care and diligence, vntill you haue done all that lyeth in you, according to your bounden dutie, to bring all such as are,

pag. 41.

A LEARNED MINISTERIE

or shall be committed to your charge, vnto that agreement in faith and knowledge of God, and to that ripenesse and perfectnesse of age in Christ, that there be no place left among them, either for errour in religion, or for viciousnesse in life. As here you see the whole summe of the office of a Minister, recited by act of Parliament, and pronounced by the Bishop: So in the whole action of ordering Ministers, both the Bishops interrogatories, and the parties answers, and all tendre to admonish the Minister still of his duetie, in teaching and instructing the people, and in preaching. Where the whole action of ordering Deacons, tendeth to admonish the Deacon of his office in reading: As thus. (Will you diligently reade the same vnto the people assembled in the Church, where you shall be appointed to serue)

Answer.

I will.

And againe. (It pertaineth to the office of a Deacon, to reade holy Scriptures and Homilies in the congregation.) And againe, (Take thou authoritie to execute the office of a Deacon, in the Church of God, and take thou authoritie to read the Gospell in the Church of God.) And then one of them appointed by the Bishop, shall reade the Gospell of that day. And no doubt, the whole house of Parliament had a singular care to haue these offices distinguished by their law, euen as they are distinguished by the lawe of Christ himselfe, as appeareth both by the places of Scripture, appoynted by the statute to be read for every office: And also by appoynting the prouision for the pooze, vnto the Deacons. And furthermore, it is his office, sayth the Bishop by the same statute, where prouision is so made, to search for the sicke, pooze, and impotent people of the parrish, and to intimate their estates, names, and places where they dwell, to the Curate, that by his exhortation they be relieved by the parrish, or other conuenient almes. And therefore I conclude againe, that the Bishop can no more appoynt the office of prouision for the pooze, vnto a Minister, then he can change or alter an act of Parliament: And therefore, that he can no more command a Minister to read Homilies, then he can command him to make prouision for the pooze. For as touching these words toward the latter ende of this action. (Take authoritie to preach where thou shalt be appointed:) Whereby they take hold, no otherwise to suffer them to preach, then as they shall be licensed afterward by writing, hath neither head nor tayle. They make, by their fauourable pacience, a construction thereof, without all ryme or reason. They expound (VVhere) which is a worde signifying place, and referred to a place, for (VVhen) which is a worde importing

COMMANDED BY THE LAW.

Pag. 44
 imposing time. But had this worde (VVhen) bene placed in steede
 of (VVhere) they might perhaps, haue had some cloake for the
 rayne: for so the worde (VVhen) and the worde (Shall) might both
 haue had relation to the tyme to come. And yet notwithstanding,
 this kinde of speech would haue bene but a hardy kinde of speech:
 namely, to say; (Take thou authoritie to preach, when thou shalt
 haue authoritie to preach) coupling the present tense with the future
 tense, the tyme present, with the tyme to come, applying that to them
 selues (but men) which is onely proper and peculiar to the holy Ghost:
 vsing the future tense, and the tyme to come, for the certaintie of the
 euent thereof, in steade of the present tense, and the time present:
 But these words (Take thou authoritie to preach the worde to the
 Congregation, in the place where thou shalt be appoynted) is a ve-
 ry proper kinde of speech, and the words themselves carry with them
 a naturall sense: As if the statute should haue precisely and absolute-
 ly sayd thus: In what place soeuer, thou shalt hereafter be appoynt-
 ed to execute the office of a Minister, thou hast nowe authoritie gi-
 uen thee to preach. For in case this were not the naturall meaning
 of the statute, they might well forbid the Minister to administer
 the Sacraments, without speciall licence in writing, or not to
 praye, or not to fast, or not to saye seruice, or not to burie the
 deade, and such like. But there is moze to serue their turnes, and
 to helpe their cause in the law Canon, and in the Iniunctions, the law
 Canon being thus.

QVIA VERO NONNULLI. &c. But because some, *Ex. de hares*
 vnder the colour of godlines, denying (as the Apostle sayth) the
 power thereof, challenge vnto themselves authoritie to preach,
 whereas the Apostle sayth. Howe shall they preach, vnlesse they be
 sent, all they which are forbidden, or not sent, shall (besides authori-
 tie given vnto them, either from the Apostolike sea, or the Catho-
 like Bishop of the place) publikely, or priuately presume to vsurpe
 the office of preaching. let them be excommunicated, and vnlesse
 they speedily repent, let them be punished, with some other compe-
 tent paine. *excom*
Quia vero.

Pag. 45
 The Iniunction being this. (Item that they, the persons aboue re-
 hearsed, shall preach in their owne persons, once in euery quarter of
 the yeare, at the least, one sermon, being licensed specially therevnto.)
 Wherevnto I aunswere, that this decree, and this Iniunction, re-
 quiring speciall licenses to preach: And the Bishop, by vertue of the
 foresayd statute, giuing authoritie to preache, cannot sarre much,
 and that one little worst will set them in tune, their oddes is so small.
 If I say vnto one, by word of mouth, *Syn*, take here the keye of the
gate

gate of my pasture, where my grey ambling gelding runneth, open the gate, bring him out, take him to your owne vse: I giue him you frankly, hath he not as good a title and interest to my horse, as if I had made him a bill of sale, vnder my hande and seale? And hath not the Minister likewise, as well a speciall license, from a Bishop, to preach, that is willed openly in the presence of God, men, and angels: as he, that hath a speciall license giuen him alone in a corner: the one is pronounced, solemnly in the midst of the congregation: the other is done secretly, by a Goose quill. Moreover, neither doth the foresayd Canon, neither yet the Inunction, require a speciall license in writing, to the ende, that the Minister should haue power thereby onely to preach. For so should you take away the forme and order, appointed by act of Parlement, whereby authoritie is giuen to a Minister to preach, and commit the making of a Minister, to the Bishop, without a congregation. But the ende, why a speciall license, ought to be had, is not so much, for the parte himselfe to preach within his owne cure, as for them, that shall admit him to preach out of his owne cure: And that appeareth manifestly by the eight article of the Inunctions. The words are these. (Also that they shall admit no man within any their cures, but such as shall appeare vnto them to be sufficiently licensed therevnto, &c.) And in the ende of this Inunction, it is expressly permitted to euery Minister, to preache within his owne cure, though he be not specially licensed therevnto. The words are these: (And that no other be suffered, to preach out of his owne cure, or parrish, then such, as shall be licensed, as is before expressed.) Therefore, a Minister to preach within his owne cure, yea though he haue no license, is commaunded. In the time of Henry the 4. at what time Wickliffe preached the Gospell, the very same lawes were established against him, and his brethren, to stave the course of the Gospell: and yet were neuer any forbidden to preach in their owne parishes, as appeareth by that, that followeth. (Let no man within this Realme, or other the Kings dominions, presume, or take vpon him to preach priuily, or apertly, without speciall license, first obtained of the Ordinary of the same place, Curates in their owne parrish Churches, and persons heretofore priuiledged, and others admitted by the Canon law, only excepted. And that no manner of person, secular, or regular, being authorized to preach by the lawes now prescribed, or licensed by speciall priuiledge, shall take vpon him the office of preaching the word of God, or by any meanes preach vnto the Clegie or Laetic, either in the church or without, in Latine or English, except he first present himself, & be examined of the Ordinary of the place where he preacheth: and so being found a fit person, as wel in maners, as in knowledge, he shall

COMMANDED BY THE LAW.

pag. 47.

pag. 48.

be sent by the sayd Ordinary, to some one Church, or more, as shall be thought expedient, by the sayd Ordinary, according to the qualitie of the person. For any person aforesayd, shall presume to preach, except first he give faithfull signification in due forme of his sending, and authoritie: that is, that he that is authorized, doe come in forme appointed him in that behalfe, and those that affirme they come by speciall priuiledge, doe shew their priuiledge vnto the Parson or Vicar of the place, where they preach. And those that pretend themselves to be sent by the Ordinarie of the place, shall likewise shew the Ordinaries letters, made vnto him for that purpose, vnder his great seale. Let vs alwaies vnderstand, the Curate hauing perpetuities to be sent of right, to the people of his owne cure. Furthermore, no Clergy man, or Perochians of any parrysh, or place, within our prouince of Canturb. shal admit any man to preach within the churches, churchyards, or other places whatsoeuer, except there be first manifest knowledge had of his authoritie, priuiledge, or sending thither, according to the order aforesayd. Touching the first protestation to be made promised, and subscribed, by them that shall hereafter be admitted to any office, roome, or cure in any Church, or other place Ecclesiastical, contained in these words, in the booke of aduertisements. *In primis*, I shall not preach, or publikely interpret, but onely reade that which is appointed by publike authoritie, without special licence of the Bishop, vnder his seale, though her Maiesties most excellent name be vsed by the publishers of the sayd aduertisements for confirmation of them, and that they affirme her M. to haue commanded them therevnto, by her highnes letters: yet because the booke it selfe commeth forth without her M. priuiledge, and is not printed by her M. Printer, nor any in his name, therefore it carrieth no such credite and authoritie with it, as wherevnto her M. subjects are necessarily bound to subscribe, hauing other lawes, and other Inunctions vnder her M. name, and authorized by her M. priuiledge, contrary to the same. For her M. by her Injunctions, commaundeth euery Minister to preach within his owne cure, without licence, as before you haue heard. But let vs goe forward. It hath bene shewed before, that euery one, to be made a Deacon, or a minister, ought to be called, tried, examined, known to haue such qualities, as were requisite, & that mention also hath bene made of y^e face of a church, of the Latine tongue, & of many other circumstances, necessary to that action: all which things set downe rather generally, then particularly described, require a larger discourse. Panormitan, & y^e Doctors, vpon y^e ciuil & canonical law, haue these conclusions.

pag. 48.

Statuta debent interpretari, secundum ius commune, siue debent interpretationem recipere à iure communi, & statuti verba dubia debent interpretari,

C.3.

Ex m. ca. dictum de consuetu. nu. 21.

A LEARNED MINISTERIE

pretari, ut minus lædat ius commune, quàm sit possibile. Statutes ought to be interpreted, according to common lawe: or statutes ought to receive their interpretation from common law, and doubtfull words of a statute, ought to be so construed, that they be as little prejudiciall to the common lawe, as is possible. Out of which conclusions, I collect this rule: Namely, that where a statute shall establish an office, practized and had in use before the making of the statute, and shall require a calling, a tryall, an examination, and qualities in an officer, meete to execute that office, and shall not specify and declare any particular kind of calling, of tryall, of examination, and such qualities, &c. that then such manner of calling, of tryall, of examination, and such qualities, are required by that statute, to be in such an officer, as by common right were requisite for such an officer, before the making of that statute. And because by the viewe of the former order it selfe, it is very apparant that the same forme and order was appoynted, by men very desirous to promote, as much as in them lay, the honour and glory of God, and to abolish all superstitions and trumperies brought into his Church: Therefore because I ought by duetie, to conceive their meaning to the best, and most agreeable to their profession: I say, that they meant herein, onely such calling, such tryall, such examination, and such qualities, as are requisite to be in a Deacon, and in a Minister, by the lawe of God. Which is evident both by the order of prayer, used at the time of their orderings, and also by the Scripture read for that purpose. The prayer followeth. (Almightie God, which by thy divine providence, hast appoynted divers orders of Ministers in the Church, and diddest inspyre thyne holy Apostles, to choose unto this order of Deacons, the first Martyr Steven, with other: mercifully behold these thy seruants, now called to the like office, and administration: replenish them so with the truth of thy doctrine, and innocencie of life, that both by worde and good example, they may faithfully serve thee in this office, to the glorye of thy name, and profit of the Congregation, thorough the merits of our Saviour Iesus Christ, who liueth and reigneth with thee and the holy Ghost, now and euer. Amen.

After this prayer, followeth the Epistle out of Timothy. Likewise, must the Ministers be honest, not double tongued, not given to much wine, neither greedy of filthy lucre, but holding the misterie of the faith with a true conscience. And let them first be proued, and let them minister so that no man be able to reprove them. Euen so must their wiues be honest, not euill speakers, but sober and faithfull in all things. Let the Deacons be the husbands of one wife, and such as rule
their

COMMAVNDE BY THE LAW.

their children well and their owne households. For they that minister well, get themselves a good degree, and a great libertie in the faith, which is in Iesu Christ, &c. or else this out of the first of the Acts.

Then the twelve, called the multitude of the Disciples together, and sayd: It is not meete, that we should leaue the word of God, and serue tables: wherefore brethren, looke ye out among you seuen men of honest report, and full of the holy Ghost and wisdom, to whome we may commit this businesse, but we will giue our selues to continual prayer, and to the administration of the word. And that saying pleased the whole multitude, and they chose Steven, a man full of faith, and full of the holy Ghost, and Philip, and Procorus, and Nicanor, and Timon, and Parmenas, and Nicolas, a conuert of Antioche. These they set before the Apostles, and when they had prayed, they layd their hands on them, &c.

Pag. 50.

The Communion ended, shall be sayd

this Collect.

Almighty God, giuer of all good things, which of thy great goodnesse, hast vouchsafed to accept and take these thy seruants vnto the office of Deacons: make them we beseech thee, O Lord, to be modest, humble, and constant in their ministration, to haue a ready will to obserue all Spirituall Discipline, that they hauing alwayes the testimonie of a good conscience, and continuing euer stable and strong in thy Sonne Christ, may so well vse themselves in this inferior office, that they may be found worthy to be called to the higher ministries in the Church, thorough the same thy Sonne our Saviour Christ, to whome be glorie and honour world without ende. Amen.

Fol. 1. pag. 5.

Pag. 4

The Epistle appointed at the tyme of

*ordering of Ministers, shall be read out of the
twenty chapter of the Acts.*

From Mileto. Paule sent messengers to Ephesus, and called the Elders of the Congregation, which when they were come to him, he sayd vnto them. Ye knowe, that from the first day that I came in to Asia, after what manner I haue bene with you, at all seasons, seruing the Lorde with all humblenesse of minde, and with many

Fol. 8. pag. 1.

C. 4.

teares,

A LEARNDE MINISTERIE

teares and temptations which happened vnto me, by the layings a-
waite of the Iewes, because I would keepe backe nothing that was
profitable vnto you, but to shew you, and teach you openly, thorough e-
uery house, witnessing both to the Iewes and Greekes, the repentance Pag. 8
that is towards God, and the faith which is toward our Lord Iesus.
And now behold, I goe bound in the spirite, vnto Ierusalem, not
knowing the things that shall come to me there, but that the holy
Ghost witnesseth in euery citie, saying: that bonds and trouble abide
me: but none of these things moue me, neither is my life deare vnto
my selfe, that I might fullfill my course with ioy; and the ministrati-
on of the word, which I haue receiued of the Lord Iesus, to testifie
the Gospell of the Grace of God. And now behold, I am sure that
henceforth you all, thorough whome I haue gone preaching the king-
dome of God, shall see my face no more. Wherefore I take you to re-
cord this day, that I am pure from the bloud of all men. For I haue
spared no labour, but haue shewed you all the counsell of God. Take
heede therefore to your selues, and to all the flocke, among whome the
holy Ghost hath made you ouerseers, to rule the congregation of God,
which he hath purchased with his bloud, &c.

Or else the third chapter of the first

Epistle to Timothie.

This is a true saying. If any man desire the office of a Bishop, he
desireth an honest worke. A Bishop therefore must be blameles,
the husband of one wife, diligent, sober, discrete, a keeper of hospita-
litie, apt to teach, not giuen to ouermuch wine, no fighter, not greedy
of filthy lucre: but curteous, gentle, abhorring fighting, abhorring co- Pag. 9
uetousnesse, one that ruleth well his owne house, one that hath chil-
dren in subiection with all reuerence. For if a man cannot rule his
owne house, how shall he care for the Congregation of God? He may
not be a young scholler, least he swell, and fall into the iudgement of
the euill speaker. He must also haue a good report of them which are
without, least he fall into rebuke, and snare of the euill speaker.

After this shall be read for the Gospell,

a peece of the last chapter of Mattheu.

fol 9 pag 22

Then Iesus came, and spake vnto them, saying: All power is gi-
uen vnto me, in heauen and in earth: Goe ye therefore, and
teach

COMMANDED BY THE LAW.

teach all nations, Baptizing them, in the name of the Father, and of the Sonne, and of the holy Ghost: teaching them to observe all things whatsoever I have commanded you. And loe, I am with you alway, even unto the end of the world.

The prayer used by the Bishop, in the ordering of Ministers.

A Almighty God, giuer of all good things, which by thy holie spirit, hast appointed diuers orders of Ministers in the Church, mercifully beholde these thy seruantes, now called to the office of Priesthoode, and replenished them so with the truth of thy doctrine and innocencie of life, that both by worde and good example, they may faithfully serue thee in this office, to the glorie of thy name, and profite of the congregation, through the merits of our sauour Iesu Christ, who liueth and reigneth, with thee and the holie ghost world without end, Amen.

These prayers, and places of Scripture appointed by the whole consent of the realme, to be made and read at the time of making Deacons and Ministers, most strongly prooue, that their intent and purpose was, to haue such men placed in the office of Deacons, and Ministers, as whom the holy Scriptures hath commanded should be placed, and as they praise might be placed. But suppose that they, being not so faithfull to the Lord as were expedient for them, account not the Lordes waies to be the best waies, his counsels not to be the wisest counsels, to interpret the meaning of the statute, because they are such waies, as wherein the Lordes seruants applie them selues precisely to walke, and therefore ignominiously are termed Precisians: Suppose this, I saie, yea, and suppose, that they haue preferred their owne inuentions, and set the consultations of the grauest Senatours, and wisest Counsellours, and chiefest Rulers of the land behinde their backs: yet, if reason might haue ruled them, and their will might haue bene no lawe, there was, and is, an other manner of calling, of triall, of examination, other qualities, an other face of the Church, an other Latine tongue, by other positieue lawes required, which as (partly by sequel of their proceedings, and partly by their owne records appeareth) was neuer or very seldome used by any of them. The manner of calling ought to haue bene thus.

QUANDO EPISCOPVS, &c. When the Bishoppe is disposed to make an ordination, all they which wil come to the holy ministerie, the fourth daie before the ordination, are to be called

The manner
of calling.

A LEARNED MINISTERIE

led to the Citie, together with the Elders, which ought to present them And this kinde of calling is a solemne publishing the Bishops purposes, either by some processe openly fixed upon the doores of the Cathedral Church, or proclaimed *Vox Præconis*, by the voice of an Apparatur, to make the Bishops intent knowne, that happily such a day he wil make Deacons or Ministers, and therefore citeth such to be present, as wil offer themselves meete men for that service. Which manner of calling, is briefly also commaunded, by order and forme of the booke of ordaining Ministers. First when the day appointed by the Bishop is come, &c. And in the Articles of religion, the selfe same is expressed. It is not lawfull for any man to take upon him the office of publike preaching, or ministring the Sacraments in the congregation, before he be lawfully called, and sent to execute the same. In the Aduertisements likewise, you haue these wordes. First, against the day of giuing orders appointed, the Bishop shall giue open monitions to all men, to except against such as they know not to be worthie, either for life or conuersation. The manner of triall followeth, and ought to be after this sort.

ET TUNC EPISCOPVS, &c. And then the Bishoppe ought to choose him Ministers and other men skilfull of the law of God, exercised in Ecclesiasticall functions, who first of all ought diligently to enquire out the life of them that are to be ordained, their kinred, their Countrie, their age, their bringing vp, the place where they were borne, whether they be learned, whether instructed in the law of God, whether they firmly holde the Catholike faith, and in plaine words can vtter the same, and they to whom this charge is committed, ought to take heede, that they doe not for fauour, or for desire of reward, decline from the truth, to present anie to the handes of the Bishop, either vnworthily, or not meete to take holie orders. And therefore let them continually three daies together be examined, and so on the sabboth in the which they are approued, let them be presented vnto the Bishop. Out of the constitutions of *Otho*, I haue before cited this decree following, which may aptly be repeated againe, to prooue the hauing of a scrutine to be necessary before the making of Ministers, as it was there to proue what qualities were requisite in them. *Quare cum nimis periculosum sit*, &c. Considering that it is a thing verie perillous, to ordaine men vnworthie, idiots illegitimate, irregular, persons vnlearned, persons vagarant, and such as haue not anie certaine or true title: indeed we ordaine, that before the conferring of orders, diligent inquisition and search be made by the Bishoppe of all these things. And the glose vpon the word *anæ*. *Est ergo necessarium*, &c. It is therefore necessarie,

Fol. 2 p. 2. 27.
Article.

In the title
Articles, for
certaine or-
ders in ec-
clesiasticall
pollicie.
The manner
of triall.

Constituti. Otho
Sacer.

COMMAVNDED BY THE LAVV.

cessarie, that this scrutine of the examinants preceede the conferring of orders, euen as the commaundement of the father, or minister, must necessarily preuent the taking of an inheritaunce by the sonne, or by the seruant, and this must be so done for the irreuocable preiudice that otherwise might happen. And because this collation hangeth on the disposition of law, any preposteration, contrarie to the order appointed by law, shall annihilate the whole act. Againe, an other glose hath these wordes, *Ordinandi ita sunt, subtiliter examinandi, & inquirendum est, de natione in qua nati sunt, an sint de illa diocesti, an legitime nati, an bonae famae.* Men to be ordained, are narrowly to be examined, and there must inquirie be made, what countrie men they are, whether they be of the same Diocesse, whether they be legitimate, whether they be of good fame. *Quia in nullo debet eorum opinio vacillare,* Because their credite ought not to be shaken in anie case. And the Pope in that Chapter, reprehending the curiositie of the Bishop, vnto whome he writeth, for too too narrowly inquiring after the manners of certaine compurgatours. *Vinum* (saith he) *sic discuteres ordinandos.* I wish thou wouldest make such inquisition of those, whom thou preferrest to holie orders. Another reason why a Minister should be tried, is, because he must be learned: but *qualitas extrinseca, ut literatura non praesumitur, nisi probetur.* An outward qualitie, as learning, is not presumed to be in a man, vniess it be so prooued, and therefore he is to be examined vpon the same. *Et ubi dare volo filiam meam, id est, ecclesiam in sponsam, debeo inquirere de dignitate sponsi: ratio, quia eligens tenetur inuenire conditionem debitam filio,* And where I minde to giue my daughter, that is to saie, a Church to be a Wyde, I ought to enquire of the worthinesse of the Wydegroome, videlicet, of the Prelate, the Wydegroome of the Church: and the reason is, for that euerie father choosing an hus bande for his daughter, is bounde by lawe to choose one of condition meete for his daughter. In forme and manner of ordering Deacons, by the Booke of Edward the sixth, a certaine triall is likewise commaunded, the Bishoppe vsing these wordes to the Archdeacon. (Take heede that the Persons whome yee present vnto vs, be apt and meete, for their learning, and godlie conuersation, to exercise their ministerie duellie, to the honour of God, and edifying of his Church.) This manner of triall cannot better appeare, than by a comparison to the proceedings and Commencements in Orenfoyd or Cambridge, familiarly known to Schoolemen in both Uniuersities. Whosoener is to take any degree in Schoole, either Bachelor Paister or Doctour in anie facultie, he must first set vpon the scholz doores,

Glos in cap.
constitutur
ver. ordinans
dos ex de
purgatione c.

Distinc. 33.
laici.

Glos. de elec.
le. 6. ca. si forte
ver scientia.
ff. De ritu:
nup. l. quilibet
ros.

Extravag.
com. c. ad eus
iustitias de
prabend. &
d. g.
The triall of
Ministers.

Doones, his questions wherein he is to aunswere: He must publike-
ly aunswere to euery one that will appose him: he must afterward
in the Uniuerſitie Church, submit himſelfe priuately to the exami-
nation of euery one of that degree, wherevnto he deſireth to be pro-
moted: He must afterwards be brought by his preſenter into the
congregation houſe, to the iudgement and triall of the whole houſe,
and if he ſhall there haue a ſufficient number of his ſuperiours voi-
ces, allowing his manners, and pleaſed with his learning, he is
then preſented, by one of the houſe, to the Vice-chauncellour,
and Proctours, and by them as Judges in the name of the
whole houſe, admitted to his degree. The examination where-
of mention is made in the Booke of King Edward the ſixth,
ſomewhat varieth from this kinde of trial, and conſiſteth in the in-
terrogatories betweene the Biſhoppe demanding, and the part-
tie aunſwering. For, ſaith the Biſhoppe, (Doe you thinke,
ſc. Do you vnfaignedly beleene, ſc. Will you applie, ſc.) And
the partie aunſweareth, I thinke ſo: I doe beleene: I will, ſc.
For, ſaith the Booke, then ſhall the Biſhop examine euerie one of
them that are to be ordained in the preſence of the people, after this
manner following. (Do ye truſt, ſc. Doe ye beleene, ſc.) There
is alſo to be required by the Booke, that the Biſhoppe ſhoulde haue
knowledge of the partie to be made a Deacon or Miniſter. Which
knowledge euery man wil geſſe ſhould not be a bare view, or ex-
ternall ſight of the comelineſſe and proportion of his bodily ſhape and
perſonage, but a ſure and ſtedfaſt iudgement, grounded vpon ſub-
ſtantiall proofes of the vertues and ornaments of his minde: and the
ſame alſo ſhould be a farre more exquisite knowledge, than onelie to
know the man to be an honeſt man, becauſe the Booke requireth
him alſo, to be an apt and meete man, to execute his miniſterie
duelie, for which, one amongeſt euen the meanest of vs all, hauing
vpon a ſodaine eſpied one like an honeſt man, yea, or one happily
commended vnto vs to be a right honeſt man indeed, which one (I
ſaie) of vs, would ſoothwith familiarly greete this man, clappe
his handes vpon his head, and liberally entertaine him, to teach
his ſonnes Demosthenes in Greeke, or Cicero in Latine, the part-
tie him ſelfe being ſuch a one as neuer had learned the Greeke Alpha-
bet, or the Latine Grammar? Would we not be thus circumspect,
trow you, as to trie his cunning, ere wee truſted his honeſty in
this caſe? With what qualities, ſuch as are to be made Mini-
ſters or Deacons ought to be adorne, hath beene already ſuffi-
ciently declared out of the lawes poſitiue in force. And now what
is to be vnderſtoode by the face of the Church, whereof mention is
made

Fol. 7. pag. 1.

COMMANDED BY THE LAW.

made in the saide booke, that that followeth may sufficiently instruct vs. The Canon law touching this point saith thus: *Alia autem*,
 58. &c. But otherwise let not a Bishoppe presume to ordaine anie, without the counsell of the Cleargie, and the testimonie of the people. Againe, see that solemnly, at a conuentent time, and in the presence of manie standers by, you make ordination both of Elders and Leuites. And againe: the other Priests, let them be ordained of their owne Bishoppe, so that the Citizens and other Priests giue their assent, and so likewise must the Deacons be ordained. And againe, let not a Bishoppe ordaine any Clearkes without the aduise of his Cleargie, and so too, that he seeke the allowance and good liking of the Citizens. And againe: let the requests of the Citizens, the testimonie of the people, the iudgement of the honourable, the election of Clearkes be had in the ordination of Clearks. And note, that these texts and many other moe doe all affirme, that elections and ordinations must be made by Citizens and Priests or Clearkes in the plurall number, and not by one Citizen or one Priest in the singular number: Neither are these decrees to be vnderstoode of the chiefe Priest of euerie Diocesse alone, but are verified of euerie Priest throughout the the Countreie, as appeareth by the Canon following. *Sed nec ille deinceps sacerdos eris, quem nec clerus, nec populus propria ciuitatis eligit.*
 But he shall be no Priest hencefoorth, whom neither Cleargie, nor people of his owne Citie hath elected. Wherevnto also the Ciuile law accorde. *Si vero*, &c. But if holie rules shall prohibite such as be chosen by them, as men vnworthie, then let the most holie Bishoppe procure to ordaine whomesoeuer he shall thinke best. A Bishoppe alone, may then ordaine, saith this lawe, when the people and Cleargie haue chosen vntoworthie men: it saith not, that he may alwaies ordaine alone without contradiction, or that the people and Cleargie haue no interest in the action. But this lawe onelie prouideth in this case a remedie, to supplie the negligence of those vnto whome the election appertaineth, if they shall do otherwise therein than becommeth them. And to make this matter wherof we intreate moze plaine and euident, euen by the statutes and ordinances of the realme, the choice and ordination of a Minister, is not appropriated to the Bishoppe alone. First, by the statute 25. H. 8. these laws, Canons, and decrees before specified, being then in force, in as much, as they be neither contrariant, nor repugnant to the laws and customes of the realme, nor derogatorie to the Queenes prerogative royall, are confirmed, ratified, and in force nowe. Yea, because they are agreeable to the lawes and customes of the realme,

Distin^t. 24.
c. quando.

70. Distin^t.
c. ordinationes.

24. Distin^t.
c. Episcopus.

Distin^t. 64.
c. Si forte.

Athen de
sanct. Epif^o §.
clericos col-
la nona.

and

A LEARNED MINISTERIE

and maintaine her prerogative royall, as afterwards shall be declared, they ought now to be executed. Secondly, by a Statute made 21. of H. the 8. chap. 13. It is enacted, that a Bishop may haue six Chaplains, because six Ministers at the least, ought to be present when the Bishop giueth orders: Thirdly, in the Booke of making Priests, &c. are these words: there shall be an exhortation vnto the people, declaring how the people ought to esteeme them (meaning the Ministers) in their vocation. And these words: the Bishoppe shall say vnto the people. Brethren, if there be any, &c. And these words the Bishop commending such to the prayers of the congregation, with the Cleargie and people present shall say, &c. Then shall the Bishop examine euerie one of them that are to be ordered in the presence of the people. By which words and braunches of the Booke it is euident, that that people, ouer whom the Minister is to be placed, ought especially to be present. For what profit can a people dwelling at Dorke reap by exhortation of the preacher vnto loue and obedience vnto their Minister, when their Minister shall be made at London? Her Highnesse, the nobilitie and fathers of the land, were of more wisdom and vnderstanding, I am sure, than to imagin, that a people dwelling at Carlile, could be taught or instructed by a Sermon made at Excester. And by the former decrees, wherein mention is made of people and Citizens, the same people and Citizens (if we wil know what Citizens be properly) are not taken for the Quirksters, the Singers, the Organ-plaiers, the Canons, the Archdeacon of the Cathedrall Church (for all these by the Canon law beare the names of Clearks) neither are the Bishops seruants, taken in these Canons for Citizens: because Citizens, by these rules, must giue their consents, and as hauing a principall interest in the action must not only be eye-witnesses and eare-witnesses to the Bishops vpight dealing, but also must be agents and cohelpers themselves. But *serui* and *domestici*, *in re non domestica*. Seruants and folke domesticall, in a thing not domesticall, are not allowed fit witnesses, neither haue seruants, as seruants, any interest: And therfore Citizens in these former Canons are Citizens, *Et re, & nomine*, Citizens in deed, and in name. And as I prooued before out of the statute of the land, that as the people of the place destitute of a Pastour must be present, and giue their consent at the choice of their Minister, so is the same also stablished by Canon law, and confirmed by Act of Parliament. For this word *Consensus* sive *collaudatio*, Consent or approbation. Described to be *multorum voluntas, ad quos res pertinet simul iniuncta*: the wil of many, vnto whom the matter appertaineth, jointly linked together, prooueth, that not onlie Citizens indeed, but also that

Glos. in. e. 1.
de rebecca.
non alienand.
ver. tractatus
lib. 6.

COMMANDED BY THE LAW.

that Citizens of the place, where the partie should afterwards serve as a Minister, ought to give their consent and allowance to the making him a Minister, because the matter of having a Minister appertaineth properly unto none other, but chiefly and altogether concerneth them. And therefore the law willeth, *It quod omnes tangit, ab omnibus approbetur*. That that be allowed of all, which toucheth all. Whereat our Bishoppes themselves, in their English Canons of discipline have aimed, and whereunto in wordes they have agreed. The Bishop shall lay his handes on none (say they) nor at any other time, but when it shall chauce some place of ministration to be void in the Diocesse. And therefore I conclude, since none must be made a Minister, but when it shall chauce that some place of ministration be void, and since the consent and allowance of the people, whom the matter doth concerne, must by the Canons and Statutes in force, be had, that therefore the people of the place, where such place of ministration is void, have in the choice and appointment of their Minister, a speciall interest, and prerogative. Neither ought those ridiculous Canons of that foolish Pope Adrian the proud, *Nullus Laicorum principum, &c.* Let none of the lay Princes or Potentates joine him selfe to the election or promotion of a Patriarke Metropolitane, or any Bishopp, &c. Neither ought this and such like Canons (I say) any whit impeach the truth of my former assertions. First, for that these latter Canons are directly opposite, and contrarie to the ordinance of almighty God: And the Apostles (saith the holie Scripture) calling the multitude of the disciples together, said unto them, choose therefore brethren out from among you, seaven men of good repute, &c. whom we may appoint to this businesse: and this speech pleased the whole multitude then present: and they choose seaven, &c. Which ordinance of the Apostles, whosoever shall thinke, that the same may receive a counterblow by an Angel comming from heaven, much lesse by a Pope, comming from the bottomlesse pit, for my part, I hold him accursed, and so utterly unworthy the name of a Disciple. Secondly, the said Canons of Adrian, plainly, and in flat termes are derogatorie to her Majesties prerogative royall, and therefore by the statute of 25. Henrie the eight utterly abolished. Thirdly, they are against the customes and statutes of the realme. For by all the customes of the realme, where any Mayor, Bayliffe, Sheriffe, or head officer of any Borough, towne, or any incorporation is to be elected, or where any Knight of the shire, any Burgess, any Constable, any Crier, any Clerger within any forest, and such like are chosen, the same officers are alwaies chosen

Bishops Canons. fol. 5.

63. Dist. cap. nullus, &c. non est.

Act. 6.

by.

A LEARNED MINISTERIE

by the greatest part of such mens voices, as haue interest in the action. And as touching the statutes of the realme, it is likewise evident, that they confirming the booke of King Edward the sixth: and the Canons, not preiudiciall to her Highnesse prerogatiue royall, giue vnto the Prince, nobilitie, gentrie, and other faithfull of the land, an interest, in choise and allowance of their pastours. And who can be so void of reason or vnderstanding, as to imagine, that men renued with the spirit of wisedome, in the gospell of Christ, should be careful and diligent, in the choise of discreet and wise men, to be dealers for them, in matters pertaining to this transitorie life, and yet should be remisse and negligent what guides they approue of, to conduct them in the waies of eternall life? Or that they should be lesse prouident ouer their spirits and soules, than ouer their bodies and goodes? Euery man whether he be in the ministerie, or out of the ministerie, contrarie to the blind popish distinction of Latitie and spiritualtie, if he be a true beleuer, is the seruant of Christ, and hath the spirit of Christ, and in the choise of his pastour shall haue a spirit giuen vnto him, to discerne whether the same be a man apt to teach or no. The confusion therfore so greatly feared by Popish idolatours, is not once to be suspected amongst Christians. They had cause to feare and be affrighted, hauing put away faith and a good conscience: But we haue boldnes, with confidence to approach vnto our God, who is able, and will assuredly stay the rage of the people, and finish our actions, with a quiet and peaceable issue. And thus much of the face of the church, & of the choise and consent of the people and Cleargie, to be had in the ordering of Ministers. Touching the Latine tongue required to be in euery Minister, as the lawes haue alwaies had respect to a competent and sufficient knowledge therein: so the Act of Parliament, made the 13. Elizabeth. chap. 12. hath fully and at large expounded the same, and limited the knowledge thereof in these words: (None shall be made a Minister, vnlesse he be able to aunswere and render to the Ordinarie an account of his faith in Latine, according to the said Articles.) And if any shall be ordained, contrary to any prouision of that Act, then is he no Minister at all.)

And thus, as briefly as I could, I haue examined these words mentioned in the booke, *videlicet*, calling, tried, examined, knowne, qualities, the face of the Church, and the Latine tongue, what meaning and signification by lawes in force the same wordes haue. And also what order and forme our Bishops ought by Law positive to haue vsed in making Deacons, and Ministers: and what credite and fidelitie her Highnesse, and the whole bodie of our Church,
and

COMMANDED BY THE LAW.

and common weale haue reposed in them, for an orderly, upright, and sincere disposition of these things. Unto which trust, howe answerable their service and gouernement hath bene, I doubt not, but vppon their examinations they will approoue the same, to haue bene faithfull, iust, and equall. But by waie of supposition, if any shall denie their fidelities to haue bene such as is pretended, what remedie then? or what is to be done then? Herevnto I aunswere: since the perill happening vnto others through their negligences in time past is vnrrecoverable, that therefore the Lawe established against such excesse, would be executed in time to come: the punishment of one is a terrour to many, and by feare of punishment a man is made good. The summe and effect of which Lawe, confirmed by Act of Parliament, is this, *videlicet, Tam indignè promouens, quàm indignè promouus est deiciendus*. As well the man vnworthily promoting, as the man vnworthily promoted, is to be deposed. Proofs and examples whereof are these. In the chapter, *NIHIL EST? EX. DE PRAEBEND.* Order was taken, as you haue seene befoze, that not onelie men vnworthie should not be admitted to regiment of soules, but it is also in that place provided, in case any thing shall be otherwise vnadvisedly attempted, that then not only the man vnworthily promoted, but also the vnworthie promotour should be punished. And againe, it is decreed thus: If they shall hencefoorth presume to ordaine any that are unskillfull and ignorant, which may easily be espied: we decree, that both the ordainours, and the ordained be subiect to grieuous punishment. Againe, *Qui ex certa scientia indignum ordinat, aut deponitur; aut priuatur potestate ordinandi*. He that wittingly ordaineth an vnworthie man, is either to be deposed or deprived from power to ordaine. Againe, *Si qui Episcopi, &c.* If anie Bishoppe haue consecrated anie such Priest as ought not to be consecrated, although in some sorte they escape infamie, yet they shall not thencefoorth haue ordinations, neither shall they ever be present at that Sacrament, which they vnworthily haue administred. Vpon which decree, and the word Ordinations, the glose flatly concludeth, *Quod semper est veritas, quod qui promouet indignum depositionem meretur*. That the truth euermore is this, *videlicet*, that, whosoener promoteth an vnworthie man, deserueth to be deposed: *Quia culpauis, &c.* Because hee is culpable, committing an order, charge, or office to such an vnworthie person: And because hee is vnfaithfull, communicating his ministerie vnto an vnworthie man, to the hurt of the Church, and honour of God, which by good Ministers ought to be furthered. A Shippe-maister or an

*Ex de aue
& qualis, c.
penult.*

*So, dist. c. ex
penitentibus
& 51 dist. c.
aliquantos.
1. q. 1. c. Si qui
episc.*

*Glos in const.
Cubo, de serm.
in ord facien.
c. 1. ver. ab.*

D

Inne-keeper,

A LEARNED MINISTERIE

*ff. de exercit.
l. 1. § magistru.*

Inne-keeper, vsing the seruice of an euill mate, or shippe boy, or of an vnchristie Tapster or Oiler, is to make restitution, if any thing be imbezled from his passengers, or guests: for the negligence of either of these, in this case is punishable, *Quia oper a maiorum sermorum vitiatur*. Because he vseth the seruice of euill seruants. By which Lawes the glose ppooueth, that though an Archdeacon haue authoritie by his office to examine, and do present vnfitte men to the Bishoppe, that yet the Bishoppe notwithstanding ought to be punished, because the Bishoppe is answerable for the fact of the examination, sithence the examination is made by his commaundement, and also for that *Reservatum est episcopo ius examinandi illum*, Right is reserved vnto the Bishop to examine him, *examinatus enim examinatur in hys præcipue in quibus vertitur periculum anime*. A man once examined is to be reexamined, especially touching those things, wherein peril of soule consisteth, *Et factum quod est, mutatur ex superuenienti causa*. And a deepe once done is altered vpon a new cause. An Archdeacon hauing by law the custodie of candlestikes, copes, and vestments, and other idolatrous garments, was remisse in safe keeping these things, wherevpon the Pope wrote to the Archbishop, and willed him straightly to require the said ornaments at his handes: and further commaunded him to be punished, and to make restitution, if through his negligence or default any thing were perished, in so much as by his office he was bound to the safe custodie of them. Neither did he behaue himselfe, *Vt bonus pater familias in re sua gessisset*. As a good father of an houtholde woulde haue done his owne houthold affaires. And thus farre touching the Bishopps, vnworthily promoting vnworthie men vnto the ministerie, touching vnworthie persons vnworthily promoted, the decrees following tell vs what in like case should be done with them.

*Glose, ad hæc
ver. examis
nentur.*

*Extrav. g. de
offi. Archid.
Glose. l. 1. nō est.
ff. de transact.*

*Extrav. g. de
statut. regul. c.
cum ad Monas
terium Spenu.*

*Extrav. g. de
stat. & qua.
c. ap. vlt.*

QUAMVIS MVLTÆ FVERVNT, &c. Although many things were proposed against the Bishoppe of Calineæ, yet because he him selfe had confessed before vs, that hee neuer learned Grammar, neither euer hath read Donate, and by euidence of the fact his ignorance of learning and insufficiencie is so apparant vnto vs, that it were against God and Canonically Constitutions to tollerate so great a defect in a Bishoppe, wee haue thought good, vterly to remooue him from the execution of the office of a Bishoppe, and also from the administration of the Church of Calineæ. If it might stand with the good pleasure of the Lord, to moue once Iehosaphat: first with the Booke of God: secondly, with the Lawes of the Realme, to make a generall visitation by men of sound and sincere religion, and by men of valiant and stout

courag

COMMANDED BY THE LAW.

courages, I dare boldly avouch, that the value of the first fruites of benefices that might be made void, by the iust deprivation of unjust possessours, even by the evidence of the fact it selfe, would amount to a greater increase of her Highnesse treasure, than the best Subsidie that the hath leuted of them since the time of her gracious gouvernement. Neither is this Chapter impertinent to this purpose, though herein expresse mention be made onely of a Bishoppe. For if you weigh and consider why the Bishoppe was deposed, the same reason is sufficient likewise to deprive any inferiour person offending in the like case. The cause of the Bishoppes deprivation was his insufficiencie and defect of learning, and why then should not insufficiencie and defect of learning, be as iust a cause to deprive a Minister, of an inferiour calling, being infected with the same disease? The charge and function of the Bishop was, to teach and governe others: The same end is allotted to euerie one that taketh vpon him the cure of soules. The Bishoppe wanting skill and abilitie to perfourme an office taken vpon him, is degraded and cast out: and an inferiour Minister, destitute of the same furniture, is maintained and kept in. Againe.

ABBAS VERO, &c. But the Abbot, (whome all men ought reuerently to obey in all things) howe much more should he be frequent with his brethren in all things, hauing vigilant care, and diligent circumspection, that he may be able to giue an acceptable account vnto God of his office committed vnto him. But if the said Abbot be a preuaricator or despiser of his order, or negligent, or remisse, let him knowe for a suretie, that hee is not onelie to be deposed from his office, but also some other waie to be chastised, considering not onelie his owne fault, but the fault of others is to be required at his hand. And againe, *Si quis Abbas cautus*

Epif. de statu Monacho cum ad Monast. § Abbas.

in regimine, humilis, castus, misericors, discretus, sobriusq, non fuerit, ac diuina precepta verbis & exemplis non offenderit, ab episcopo, i n c i u s s e r u i t a r i o c o n s i s t i t, & a vicinis, &c. If any Abbot shall not be circumspect in gouernment, humble, chaste, mercifull, discrete and sober, and shall not shew forth godlie precepts, both in word and example of life, let him be remooued from his honour, by the Bishop in whose territorie he dwelleth, and by the next Abbots & others fearing God, notwithstanding al the congregation consenting vnto his sin, would haue him to be Abbot. And therefore both these constitutions may serue to deprive all such Ministers, as in life, learning, manners, and conuersation, are like vnto such Abbots. Pea, and touching inferiour Ministers, the lawe hath likewise specially

18. q. 2. Si quis Abbas.

Extravag. de
hereti. cap.
cum ex.

promised as followeth. *Quod si forte necessitas postulauerit, ut sacerdos, tanquam inutilis, & indignus, à cura gregis debeat remoueri, agendum est ordinare apud episcopum, &c.* But if happily necessitie require, that a Priest as unprofitable and unworthie, ought to be remoued from the charge of his flocke, you must ordinarily repaire vnto the Bishoppe. Againe, *Dicitur est nobis presbyteros propter suam negligentiam canonicè degradatos.* It is tolde vs, that certaine Elders were canonically degraded for their negligence. And here it appeareth (saith the glose) *Quod quis aequè deponitur propter negligentiam, sicut propter dolum.* That one is as iustly deposed for negligence, as for collusion, according to the Tenor of the Canon following. *Non modo pro heresi vel pro qualibet maiori culpa, sed etiam pro negligentia remouebitur.* He shall not onelie be remoued for heresie, or other greater offence, but for negligence also. Wherevnto also the lawes of the Empire agree.

1. q. 1. Si quis
episc.

47. pag. 3

QVI NON SERVIT, &c. He that doth no service to the Church, or faineth him selfe to be a Clarke, when in deede he is none, he ought not to enioie the priuiledge of Clearkes, but an other is to be surrogated in his roome. And againe, *Ne argentiarius vel numulariorum munera, &c.* We commaund, that the charge of Bankers, and such as lend and exchange monie for gaine, be not left off by those which onelie hastily desire to be collegiate men or Deanes. If anie therefore vnder the bare couering of a name or title, terme him selfe a Collegiat man, or one of a brotherhoode, let him knowe that an other is to be deputed in his roome, who may be approued sufficient to execute the same office. The reasons and principall grounds of which Lawes and Canons are these. *Sola possessio non sufficit in beneficijs Ecclesiasticis, nisi ad sit canonica institutio.* A sole possession is not sufficient in Ecclesiastical benefices, vnlesse there concurre also a Canonically institution. *Sola possessio non facit aliquem decurionem, sed iusta electio.* A sole possession maketh not one a Senatour or Captaine, but a lawfull election. *Et prescriptio non prodest, cum habent malam fidem.* A prescription doth not profit, in case it be grounded vpon an euill conscience, and therefore sithence men so ordained, be male fidei possessores vniust possessours, *fraus & dolus eorum sibi patrocinari non debet,* Their deceit and collusion ought not to support them. *Neque debet quis locupletari alterius iactura,* Neither ought any man to be enriched with the losse and hinderaunce of an other; For these considerations, the law, I say, hath prouided, that both the promotors, and the promoted, *Agentes & consentientes pari pena puniantur.* As wel the Abettours as the deed doers are to sustaine equall punishment. And once againe,

Extravag. de
distitu. cap. ex
frequentibus.
ff de decurio.
l. Heremimus.

Extravag. de
prescript. c.
si diligenti &
et cum omne.

COMMANDED BY THE LAW.

as touching the displacing of idoll shepherds, and remoouing of bp-
preaching hirelings, besides these former lawes, there are many
mo notable conclusions to be drawne from the Ciuill lawes, for
the prooue thereof, *Reprobati posse medicum à republica, quamuis semel* ff. de muneris
probatum sit, Dinius magnus Ansenius cum patre rescripsit. lvi gradatim.
That a Phys-
sition once prooued, and admitted by publike consent, to the practise
of Physike, may be remooued againe from that function, in case
afterwards he be found rechelesse, the holy and great Antonie and
his father before him haue answered: and that, *Propter hominum sa-* ff. lob. iudic.
nitatem tuendam, for the preservation of mens health. The Em-
perour Justinian commaundeth thus: *SI QVOS IVDI-* Cod. de offic.
CES, &c. If thine excellencie shall finde anie Iudges, either
for their long and tedious infirmities, or for their negligence, or
for anie other like defect to be vnprofitable, thou maist remooue
them from their administrations, and place other in their steade.
Si carceri prepositus (saith the same Emperour) *præcio corruptus,* If a
keeper of a common Goale corrupted with money, suffer a priso-
ner to go without fetters, or to bring anie weapon, or poison in-
to the prison, he is to be punished by the office of the Iudge: but
if hee shall vnwittingly suffer these thinges, hee is for his neg-
ligence to be displaced. Again, the same Emperour saith, *Gram-* Cod. de prof.
maicos seu oratores, &c. If Grammarians, or Oratours, once ap-
pointed by common consent to teach Grammar or Oratorie, ap-
prooue not themselues profitable to the students of Grammar and
Oratorie, for them to be againe reprooued, is not a thing vnac-
customed. For, saith the same Emperour, *Reddatur,* &c. Let eue-
rie one be admitted home to his Countie, which is known vnor-
derly and insolently to vse the exercise of Philosophie. *In bello,* &c.
A Souldiour, who in time of warre, doth anie thing forbidden by
his Captaine, or doth not keepe his Generalles commaundement,
is to be punished by death, though his enterprize take good successie.
And shall then a pretended Minister, that forsaketh his standing, and
onely weareth the ensigne of the proclaimed enimie to his Lord and
Maister, maugre the Law of his Lord and Maister, and maugre
the law of man, enioy life and lands and liuings and all. Pano-
mitane, a famous Canonist, concludeth, that a Doctour allowed
may be disallowed againe: yea, rather saith Bartoll, a more famous
Ciuilian, he may be degraded as a Souldiour, and as a Clarke:
For those thinges, saith he, which I haue spoken in the degrading of
souldiours, the same is to be verified touching the degrading of Do-
ctours and Clarke. And this is a common and infallible conclu-
sion, by all the learned in the law, that Doctours, which by their

ff. de muneris
bus & honor.
lvi gradatim.
Sreprobati
authen. de col.
iubem? colla. 9

ff. lob. iudic.

Cod. de offic.
præfec. ons
ent. l. 3.

Cod. de cust.
& exhibi. cen
te. carceri.

Cod. de prof.
fess. & medi,
l. 2 lib. 10.

Cod. de prof.
fess. & med.
l. reddatur.

Extravag. de
renoue c. fin.
l. 2. § ignomis
nia ff. de his.
qui incl. inf.

A LEARNED MINISTERIE

*vid. cap. des
gradatio de
penis lib. 6.
vid. falsi de
rescript. ex
licetis.*

*ff. de falsi. eos
infr. v. d. Bart.
in i. reddatur.
Cod. de poss.
et mod. lib. 10*

*Panor. in c.
auris, extras
mag. de statu
at. quat.*

*When he is
ordained, he
solemnly vo-
veth to
preach, ther-
fore he pro-
miseth to be
come a Doc-
tour.
Inc vlt. ex
tra mag. de sta-
tu et qualis.*

readings or lectures, do not appoone them selues beneficiall and profitable vnto students and schollers of their profession, may, and ought well and rightly be remooued from their office of reading and teaching. Yea moreouer, w. alouer he be that taketh vpon him the office of a Doctour, wearing the armes and ensignes of Dostours, when as indeede he is no Doctour: *Teneatur pena falsi*, is to be punished by paine appointed for forgerie. Inlike case, by like reason, if an idoll Minister take vpon him by stealth and lying, the office of a true Pastour, and carrie the name and title of a true Pastour, being indeed but an hireling, and prophane Gentile: why should not he be punished with paine appointed for theuerie? In the Court of Conscience, a Doctour giuing aduice, but through ignorance or want of experience, not following in his counsell the rules and precepts of Lawe, is bounde by equitie vnto his Client, for that through his vnskilfulnesse he is dammified. A Physitian in the same Court, who, without perill of soule, or daunger to incurre irregularitie, would safely cure his patient, must be learned: he must practise according to the actions of Physicke, he must be diligent in the exercise of his facultie: he must not minister after any vnked manner, but onely according to the vsuall and ordinarie opinion of the learned in Physicke, he must be circumspect and not sluggish to search out the disease, he must be prudent and careful, both before, and at, and after the ministring of his medicine. A Minister then taking vpon him to be a Doctour of farre greater wisdom: to be a Physitian of much more excellencie: namely, to instruct and cure the soules of men with the doctrines of the Gospell: can he vnblameably console without knowledge, or safely practise without skill? Can he reach being vnlearned? or heale being not experienced? And here if the Magistrate would knowe the manner already set downe to redresse the same, and how and in what sort he may safely proceede against an ignorant and vnlearned man, he must, saith Panormitane, see that the witnesses depose, how that the partie did neuer reade anie Bookes of learning: or that he did neuer goe vnto any Schoole of learning, because no man can attaine vnto learning, vnesse he haue bene taught by one indued with learning, or spent his time in the studie of Bookes of learning: for, without a teacher, and without Bookes no man can be learned, which may be proued, as well by the confession of the partie, as by the notorioussnesse of the fact. And heere Panormitane willethe the practitioner in Lawe, diligently to marke howe insufficiencie, vabilitie, and vnskilfulnesse of a Clarke may be proued euident and notoriouse, by

COMMANDED BY THE LAW.

not reading of Bookes . As thus, Seius neuer read any Booke of Physicke : or Seius neuer resorted vnto any Physicke Lecture : therefore Seius is no Physitian . Titus neuer studied any bookes containing the doctrines or controuersies of the Gospell : or, hath not heard any preacher of the Gospell : Therefore Titus knoweth not the truth or glad tydings of the Gospell.

Our idoll Ministers, neither in times past haue had, neither now haue any Bookes of Scriptures : Therefore they neither haue beene, neither now can be learned in the Scriptures . They haue not gone, neither now doe go to any Schoole of diuine learning : Therefore they haue not beene, nor yet now are any Schollers in Diuinitie : And their insufficiencie and vnabilitie, being by this meanes palpable, are therefore notoriously depprueable, yea, degradable from their benefices and offices.

The distinction of a simple Curate, or of a curall Priest or of a plebeiane Prelate, if law were law, and reason reason, could not serue to maintaine the contrarie practise . The law Ciuil, the law Ecclesiasticall, the law of Reason, the law of Nations, the law of God in all places, at all times, and among all people, without any fauour or friendship, vnder any pretence, or for any respect, do absolutely, directly, and precisely inhibite euery man whatsoever, to take vpon him, either the name, title, or office, wherevnto he is altogether vnfit, and whereof, by law, he is made vncapable . And how then can this monstrous and damnable vsage be tollerable, for such a man to be placed and continued in the roome of Aaron, to be the mouth of the people vnto God : or in the place of Peter to feede the flocke of Christ, who knoweth neither for what, or howe he should rightly present his Supplication vnto his Prince, neither what kinde of viand, or manner of diet, he should sette before his people: Grammarians and Poets, though they haue beene traied by at Winchester or Eaton . Philosophers and Rhetoricians, though they haue spent manie yeares at Oxforde or Cambridge, are not fit straightwaies to be made Physitians of soules, and leaders of the people into the wayes of righteousness . They must shake off vanities, and forsake their vngodlinesse, wherewith they haue infected their mindes in those places, before they thrust themselves as labourers into the Lordes Vineyard, or take vpon them to be messengers in the affaires of his Emperre . Yea, popish and idolatrous Priests are vnumere, and by the Lawes in force, made vnable to enter into the Lordes Sanctuarie, though Popish Lawiers stand neuer so much opinionated to the contrarie, falsely and traisterously surmising, her Highnesse, her Nobilitie, and

all the professors of the Gospell within the lande to be heretikes, and schismatickes, and themselves only with their crue and rabble of Seminaries, to be Catholiques, as though the Lawes in force no whit appertained unto vs: but were only reserved by them selves against their daie of Iubilie long silence gaped for of them, & hitherto by the infinite mercies of the Lord denied them. The Lord make vs thankfull, pardon our ingrattitudes, and continue these his mercies long towards vs and our posteritie. I hope our Bishops and Ministers of the Gospell, and all true Christians, are thus perswaded by the word of God, that Papists are Heretiques and Schismatickes, strangers from the common wealth of Israel, and aliants from the covenant of God: I take this, I saie, as granted, and hold it for a principle in the Schoole of Christ, that Papisme is heresie, and therefore a Papist an heretique. Again, I hope our Bishops and Ministers of the Gospell, will graunt the Act of Parlement made 25. Henrie the eight, touching the submission of the Cleargie, &c. and confirmed in the first yeare of her gracious raigne to be in force, and effectuell to binde all manner of people within the lande. Again, it is manifest these Canons following to haue beene established, and neuer abrogated, before 25. Henrie the eight, *Non debet quis schismaticus etiam abiurato schismate eligi.* A schismaticke, though hee abiure his schisme ought not to be chosen a Bishop. *Heretici autem credentes, receptores, defensores & fautores eorum, istorumq; filij ad secundam generationem, ad nullum ecclesiasticum beneficium seu officium publicum admittantur.* But beleeking heretiques, their receiuers, defenders and abettors, and their sons unto the second generation, let them be admitted unto no Ecclesiasticall benefice, or publique office. And therefore from these principles, Canons, and Act of Parlement, I argue thus:

Page 71

Extravag. de elect. quis.

Lib. 6. de heret. c. 1 §. heretici.

- 1 No schismaticke or heretique, though he abiure his schisme, or forlake his heresie, may be chosen a Bishop, or admitted unto any Ecclesiasticall benefice, or beare anye publike office.
- 2 But euerie popish Priest is a schismaticke or heretique.
- 3 Therefore no Popish Priest, though he abiure, &c. may

Page 72

be chosen a Bishoppe, or admitted unto an Ecclesiasticall benefice, or beare any publike office: The maior proposition is the law of Poperie: The minor, the law of the Gospell.

Neither

COMMAYNDED BY THE LAW.

Neither both this rule of lawe: *Multa non sunt facienda, que sa-*
men facta valent, any whit gainesay the truth of this argument.
 For though it seeme probably by this rule, that a popish priest being
 once admitted vnto popish priesthood, should not be remoued: Yet
 thereby it followeth not, that religion being restored, and idolatrie a-
 bolished, he could not at the first restitution of the Gospell, and entry
 of his gracions raigne, haue bene secluded from the office of a Mini-
 ster, vnder the Gospell. For what though an Heretike, by the iudge-
 ment of an hereticall Synagogue, obtaine the roome of a sacrificer in
 the same Synagogue, and hauing once obtained it, may not be remo-
 ued from the same roome, by the former rule of lawe: Though this be
 true I say, what auailleth it to confirme, that a sacrificing Priest, by
 vertue of his admission vnto the Synagogue, ought to haue a place of
 ministratiō in the Church of Christ? For though he were admitted
 in the one, yet was he neuer admitted in the other. And therefore it
 resteth firme, that they ought not to haue bene admitted then, when as
 the whole manner of the gouernment of the Synagogue should haue
 bene altered. For as at that time, their lawes were vnadvisedly tran-
 slated from them vnto vs: So by their lawes we might aduisedly
 haue transformed them from amongst vs. They were Schismatickes
 and Heretikes, by the lawes of our religion, and therefore not to haue
 bene admitted by the lawes of their owne profession. Yea if they re-
 maine Idolaters still, or keepe backe from the people of God the word
 of God, they are to be remoued still: their setting vp and downe in
 their square ruffling and white phylacteries, or mumbling their mar-
 tens and euensong, are not so forcible to keepe them in. as their insuf-
 ficiencie, negligence, contempt, and idolatrous hearts are to thrust
 them out. And yet no part of good, wholesome, and christian gouern-
 ment and policie chaunged. For though Iosiah, moued by compassion,
 benignly suffered the Priests of Baal (repenting of their idolatry) to
 receiue riches and offerings with their brethren, the Leuites: Yet he
 straightly charged them not to enter into the Lords Sanctuary, to do
 any manner of seruice there: Neither did this his religious fact any
 whit hinder the outward peace of his kingdome. Wherefore if a Bi-
 shop, an Abbot, an Archdeacon, an Elder, a Physician, a Iudge, an
 Aduocate, a Taylor, a Tutor, a Schoolemaister, an Orator, and a Phi-
 losopher, by iustice and equitie of lawe, for vnabilitie, insufficiencie,
 negligence, or other defects, ought to be deposed, and remoued off and
 from their roomes, places, offices, and honors: how should a preten-
 sed Minister, onely intruding himselfe to an office of most high cal-
 ling, and excellencie, and vterly destitute of all gifts and graces fit
 for the same, be suffered to keepe and retaine the proper right and title

A LEARNED MINISTORIE

of an other, as his owne lawfull possession and inheritance. Had the worshippers of the false gods care, that their idolatrous Priests should haue knowledge of their idoll seruice: and shall we, the worshippers of the true God, be blameles before his iudgement seate, in case we maintaine such to serue him in the ministerie of his holie Gospell, as whose seruice, the veriest Paynymes and Idolaters would refuse to haue in their Idoll temples? And though these be sufficient proofes to euery one, not addicted to his owne will (preferring the same to all reason) that *prohibitus clericari debet reuocari ad pristinum*

*Cod. de Episc.
co. & clerici l.
Si quis curias
lib. 12.*

*Cod. de Episc.
co. & clerici l.
seru.*

statum, per manus iniectionem; and that *serui vitam monasticam deserentes, ad prioris domini seruitutem restituntur*. One prohibited to be a Clarke, ought to be reduced to his former estate, by authoritie of the Magistrate: and seruants, forsaking their monasticall life, to be restored to the bondage of their former maister. And that, *Infamia non solum impedit praefici, sed etiam remoueri facit a dignitatibus habitis*. An infamie doth not only hinder a man to be preferred, but also causeth him to be remoued from dignities already recovered. Though I say, these former proofes be sufficient, to confirme these assertions, yet to make the matter somewhat more plaine, I haue thought good, to reexamine the order and forme appointed by the former statute, for the making of Deacons and Ministers: that, if vpon examination thereof also, there doe appeare such a defect by statute law, as whereby our dumbe and idoll ministers be no ministers in deede and truth, but onely in shew and appearance; that then, therevpon order may be taken by her Maiestie, for the displacing of them, and for the placing of other lawfull and godly Ministers in their roomes. For as the statute hath limited a certayne order and forme of making Deacons and Ministers: so hath it appoynted, that all that are made according to that order and forme, should be in deede lawfull Deacons and Ministers. The wordes of the statute are these. (And that all persons, that haue bene, or shall be made, ordered or consecrated Archbishop, Bishop, Priests and Ministers of Gods his holy word and sacraments, or Deacons after the forme and order prescribed in the sayde order and forme, how Archbishops, Bishops, Priests, Deacons and Ministers should be consecrated, made and ordered, be in very deede, and also by authoritie hereof declared and enacted to be and shal be Archbishops, Priests, Ministers, & Deacons, and rightly made, ordered, & consecrated, any statute, lawe, Canon, or other thing to the contrary notwithstanding.) Which statute hath two braunches: the one appointing the forme and manner of making Deacons and Ministers, the other authorizing Deacons, and Ministers, made and ordered, after the forme and manner prescribed in the sayd booke, to be in very

deede,

*Cod. de corre.
l. infamia. lib.
10. & de dis
penat. l. iudic
ces lib. 12.*

Page 70

Page 71

COMMANDED BY THE LAW.

deede, rightly and lawfully Deacons and Ministers, and so to be taken and reputed. It followeth then, that if the first braunch of the statute be broken, and that the forme and order be not obserued, that the second braunch can take no place: for that in deede the validitie of the latter, dependeth altogether vpon the obseruation of the first. For it is plaine and euident by law, that if you would haue a second or latter action to be good, and effectually, because it is done (say you) according to a forme and order precedent, you must first proue, that the precedent was accordingly done, or els the consequent can take no place. And therefore, if the forme and order prescribed by the booke, be not obserued in making vblearned Ministers, I say then, that vblearned Ministers, by law, are no Ministers at all. And why? *Neque enim vltim balneum, aut vltim theatrum, aut stadium fecisse intelligitur, qui ei propriam formam quæ ex consummatione consistit, non dederit.* Neither can he be thought to haue made any bath, or any theater, or any race, who shall not giue it that forme which perfecteth the same. Againe: *Vbi ad substantiam alicuius actus exigunt certa forma fundans se super alio actu, debet quis probare formam præcessisse.* Where to the substance of any act, a certaine forme is required, founding it selfe vpon an other act, there a man ought to proue the forme to haue passed before. As for example. In an Euangelicall denunciation, if thou seeke to haue thy brother cast forth of the Congregation: first it is to required, that thy brother haue offended thee: Secondly, that thou priuately admonish him, and brotherly with him to amend; Thirdly, if he continue obstinate, thou must tell it him before two or three witnesses, and if he heare not them, then thou must tell it to the Church: before whome, if thou desire (I say, that thy brother by them should be cast forth of the Church) thou must first proue an offence committed against thee by him: Secondly, and thirdly, that you did both priuately by himselfe, and publicly before witnesse, admonish him, otherwise you cannot haue him excommunicated, because *Forma quotiescumq; non est seruata, actus est ipso iure nullus.* Howe often soeuer the forme of an act is not kept, the act by meere law, is no act at all: because (sayth the Canon) a solemne and diligent intreatie required in such perpetuall graunts and alienations of Church goods, hath not bene obserued therein: we, by the aduise of our brethren, decree, the same graunt to be voyd.

By ciuill law, Church goods can no otherwise be patoned, or layd to gage, then as the law formally prescribeth, because a due solemnity ought to be obserued. In fines and recoueries leuyed by the common lawes of this Realme, Attorneys on both sides must be warranted; there must be vouchers and vouchees; there must

ff. ad leg. fal. l. si quis qua-
dam.

fanor, in ca. o. extra, de iudi- cii.

Cod. De Sac- cro sanct. eccle. l. hoc in or- gadium.

A LEARNED MINISTERIE

must be writs, and returnes of writs: there must be proclamations, there must be warrantes, and many other circumstances, which being not obserued, the parties in reuerſion or remainder, being grieved, may bring their writs of error, and recover the land passed by erroneous fines or recoveries.

In the first yeare of Henry the seventh, Chapter 15, a statute was made, that the partie plaintiffe shall finde pledges, to pursue his plaint, as are knowne there in that country: In the case of this statute, if the Sheriff take one shertie alone, or men of another country, as pledges, the bond is voyd: because by the common lawes of the Realme, as well forme as matter is necessary. If in the sale of any pillers goods, or alienation of the Emperours patrimonie, the forme and manner appoynted by law, be not exactly and diligently kept, the sale and alienation is in effect no sale, and no alienation. The reasons of which lawes and ordinances (as I sayd before) are these. *Forma dat esse rei, & eius omisso inducit nullitatem actus.* The forme giueth being and essence to a thing, and the omission thereof, induceth a nullitie of the act. *Si deficit forma in privilegio, res caret privilegio.* If a privilege want the forme of a privilege, the thing lacketh privilege. And againe: *Solemnitates quæ requiruntur in aliquo actu, si non seruentur, actus corrumpitur.* Solemnities required to be in any act, if they be not obserued, the act faileth. And againe: *Forma non seruata in una parte actus, violat totum actum.* The forme not kept in one part of the act, violateth the whole act. *Quia verum est, dici, excessisse istum fines mandati.* Because it is true, sayth he, that this man hath passed the bounds of his commaundement. And therefore in an other place, Panormitane concludeth thus. *Forma certa procedendi ubi datur, processus corrumpitur, non solum quando est assentatum contra formam, sed etiam citra, vel præter formam: quia ubi forma certa datur, paria sunt aliquid facere contra, præter vel citra formam.* Where a certaine forme of proceſſe is limited, the proceſſe faileth, not onely when any thing is attempted against the forme, but also either without, or besides the forme; the obseruation of which solemnities and forme of an act, are of such force and necessitie by lawe, that neither custome, or yet a consent of parties, can alter or change the lawe heretofore. *Solemnitatis omisso ex sola consuetudine inducta, violat actum.* The omission of a solemnitie brought in onely by custome, marreth the acte. *Ea quæ inducunt certam solemnitatem in actibus hominum, non possunt consensu partium tolli, quia pacta privatorum iuri publico non derogant.* And those things which induce a certaine solemnitie in mens doings; cannot be abolished by consent of parties, because private mens compacts cannot be derogatory to common right. Inſomuch that in this case, *Forma debet seruari ad unguem, & specificè* Pag

Panor. in c. nul
li. nu. 7. de res
bus eccle. non
alia. fol. 50.
Specula in tit.
de aduoc. §
5. vers. cum
ante.
Panor. in c. fin.
vi. li. non cō
sest. nu. 20.
Panor. in c.
publicas. de es
lec. nu. 9.
Panor. in c. sus
per questionū.
§ veriam. de
off. de leg. &
id in c. prudēs
tiam. nu. 5. eod.

Panor. in Greg.
nu. 14. fol. 17.

ff. de pactis.

COMMANDED BY THE LAW.

Et non per equipollens. A forme ought to be kept at an inche, and specially, and not by any thing equiualent, though in many other cases, this rule taketh place. *Nihil interest quid ex equipollentibus fiat.* It is no whit materiall, whether of the things that be equiualent be done. Moreover, *Forma data a lege, vel statuto, debet seruari a rustico, muliere, & iuuore.* A forme giuen by lawe or statute, ought to be kept by an husbandman, by a woman, and by one vnder age, though in many other things these three haue their seuerall priuiledges. And to make this more plaine, and the certaintie thereof to be infallible: you shall vnderstand, that the law hath bene executed according to these rules, euen in this selfe same case of making Deacons and Ministers. And first, touching their tryall and examination. *Si quis Presbiter, aut Diaconus, sine aliqua examinatione ordinati sunt, abijciantur ex Clero. Et si non fueris in aetate, literatura, & honestate examinatus, deponendus est.* If any be made an Elder or Deacon, without examination, let him be cast out from the Cleargie: And if he shall not be examined touching his age, his learning, and his honestie, he is to be deposed. Secondly, touching the time. If a Minister or Deacon haue bene made at any other time, then at the time appointed by law, it hath bene decreed against them, as followeth.

Glosse quando distinct. 24. ver. in vest. gent.

EPI SCOPVM, &c. A Bishop that celebrateth orders in a day wherein he ought not, doe thou correct with Canonick discipline, and vntill they haue receiued grace from vs to be restored, so long oughtest thou to make them to be voyd of orders receiued. And againe. *Sane super eo, &c.* Truly concerning that the maner is (as thou sayest) in certaine Churches of Scotland and Wales, to promote Clerks vnto holy orders, in the dayes of the dedication of Churches and altars, out of the foure times appoynted for fastes: VVe declare that that custome, as enemie to Ecclesiastical institution, is vtterly to be improved. And had we not regard vnto the multitude and auncient custome of the land, men ordained should not be suffered to minister in orders so taken: for with vs men so ordayned should be deposed, & the ordainors should be depriued of authoritie to ordaine. Thirdly, touching the presentation of Deacons to be made by the Archdeacon or his Deputie, and of Ministers by the Archdeacon onely, out of many particular lawes, this generall *Maxime* is verified.

Extravag. de tempo. ordinand. c. cum quidam.

Fol. 1. pag. 2. Fol. 1. 1.

SI PRINCEPS, &c. If the Prince commit a cause to any, and commaunde him personally to execute the same: if in this case consist publike commoditie, this his commissarie can not substitute an other, no not euen with consent of parties, because where the Prince either couertly, or expressly, doth make choice of the industrie of any one particular person, there the partie so chosen, can

Prior. in c. fin. Si is autem n. 5. de offic. deleg. De offi. c. deleg. l. 6. c. si cui c. fin. extra. de offic. deleg. 4.

A LEARNED MINISTERIE

De offic. delegat. lib. 6. c. si cui. & ext. de offic. deleg. c. vii.

not surrogate an other. For the Prince herein doth personally qualifie the man, and giueth to him the forme of his commission. An example of this may be thus. Suppose that the Treasurership in Paules were voyd, and that her highnesse had commaunded the Bishop of London to prouide a fit man for the same roome; whether now the Bishop may commit this his charge, to be performed by an other, then by himselfe or no? And it is answered negatively, because in the choice of a fit person consisteth great danger, and therefore the Bishop being but an executor of her Maiesties pleasure, he may not substitute any other. But because her highnesse had commaunded the same Bishop of London to haue giuen the same prebend to *Lucius Tinnus*, whether then might the Bishop in this case *subdelegat Archdeacon Sempronius*. And the answer is affirmatiue, that he might: for now her Maiestie by hir selfe hath nominated the partie to be placed, and hath not cholen the Bishops industrie for that purpose, and therefore he may assigne this prouision vnto another. But it is otherwise, where the industrie of a Person is cholen, concerning one to be elected: for then, he may not set ouer that his office to any other. Now then out of these rules and lawes, I conclude, that sithence it hath pleased the high court of Parlement, particularly and expressly by name, to make choice of the Archdeacon, and hath personally qualified him, as their meetest man for this charge, chosing the industrie of his owne person, in presenting fit men to be made Ministers, or of his Deputies, in presenting fit men to be made Deacons: and forsomuch also as in this action consisteth the publike benefit of the whole Church, and on the which hangeth the greatest perill and daunger of the whole Church: For these causes I conclude, that an Archdeacon onely, must & ought of necessitie present one to the Bishop, to be made a Minister, & that the Bishop cannot dispence with him in this case, and that neither the Bishop, neither the Archdeacon, neither the partie to be made a Minister, neither the Clearks and people present, by their consents, can alter or transpole any thing herein. *Publica utilitas est pars agens. Publike utilitie is the partie agent in this businesse, and Pacta priuatorum iuri publico non derogant.* The couenants and agreements of priuate men doth not derogate from common right. And if the contrary haue bene practized, what may be concluded thereof, shall follow immediately. And againe by these prooves you may evidently see, that the calling, the triall, the examination, the time, the person appointed to present, and the age of one to be presented, haue not bene things meere contingent, but rather essentiall, not *causas sine quibus non*, but causes formall to the making of Deacons and Ministers, and such causes as being omitted, haue bene sufficient causes both to depose from their functions,

ff. de pact. l. in publicion.

COMMANDED BY THE LAW.

Pag. 39.
Pag. 40.
Pag. 41.
 functions, those that haue bene contrarywise ordained, and to punish the ordainers for their negligence in that behalfe. And therefore that our tongued Ministers, not made according to the order and forme of the statute, be in deede and truth no Ministers at all: the act it selfe, whereby they be made, and whereby they challenge their dignities, being in deede no act in law, hauing no law to approue the same, and therefore to be punished by the lawe of man, as well for entring into a calling against the law of man, as also for prophaning the holy and sacred mysteries of God. For what if respect be had to one, or two, or foure, or mo, of the solemnities and circumstances before rehearsed, & those two, perhaps of the least weight and moment, as vnto the age, the time, the Bishops particular interrogatories, and the Archdeacons presentation, and yet the rest of the greatest weight and importance, as their learning, their honesty, their aptnesse to teach, &c. be negligently or willfully omitted, shall the proceedings by such as please themselves in their owne inuentions, and be both Judges and parties, thus shew and apparence, onely supposed to be done by them that are wise and upright Iustices, and whome publike profit ought to moue to the redresse of disorders, be reckoned to be done in deede and veritie? Yea if all the former solemnities, yea euen those also of the least moment, and such as in truth might haue bene reputed accidentall, rather than substantiall, (had it pleased the law makers to haue appointed them so) haue bene, and are oftentimes omitted in the making of Ministers, and one neuer called, neuer tried, neuer examined, neuer knowne to the Bishop before that day, to be of any vertuous conuersation, not qualified as is requisite, not learned in the Latine tongue, not sufficiently instructed in holy Scriptures. (as he that came to the Bishop of Winchester, to serue in his Diocese, bozne at Norwich, and made a Minister at Peterborough: knew not how many sacraments there were, and requested a daies respite to answer the Bishop, what the office of a Deacon was, not made openly in the face of the Congregation, but priuately in the Bishops chamber or chapel: not hauing any Sermon: not apt to execute his ministry due-ly: not presented by the Archdeacon, the Bishop making Ministers at Erceter, and his Archdeacon at Drenford, or the Bishop making Ministers at Lichfelde, and his Archdeacon of Durham: not moued by the holy Ghost: not admitted on a Sunday or holy day: not of 24. yeares of age: not perswaded of the sufficiencie of the doctrine of the Scriptures to saluation: not an example in himselfe and his familie, to the flocke of Christ: not a Minister of the doctrine and discipline of the Lord Christ: not a peacemaker, but quarrelling at law for tyth, anyons, apples & cherries: not a dispensoy of the worde of God: not a pastor.

A LEARNED MINISTERIE

Foll. II. pag. 2.

pastor & steward to the Lord, to teach, to premonish, to feede and provide for the Lords stocke: if such a one I say, yea if too too many such haue bene admitted into the holy Ministerie, and all these solemnities vnsolemnly abused: may it not be rightly concluded, that such by our statute law, be no lawfull Ministers at all? Vvas the worde of any Bishop (only the word of the high Bishop Iesus Christ excepted) in any time or in any place, a lawe against the Lawe of a nation? Vvas the lawe of a whole Empire euer tied to the will of one man in a Diocesse? If the thing it selfe were not manifest to the viewe of the whole Realme: and that the vnlearned ministers in euerie parte of the Realme were not glasses, to see these deformities by: and that the daily and lamentable complaints, in the eares of hir honorable counsell, were not euident testimonies thereof: Yet were their owne registers and recordes thorowly perused, they would teach vs sufficiently, that these things (yea and worse too (if worse may be) are neither fained nor forged. And therefore I conclude thus.

- 1 Wherefoener a certayne forme and order to procede, is appointed to any, hauing no authoritie before his commission, that there, if the forme be not kept, the processe by lawe is merely voyd:
- 2 But our Bishops, before the making of the statute of Edward the first, and the confirmation thereof, 8. Elizabeth, had no authoritie to make Deacons or ministers.
- 3 Therefore, their processe not made according to the order and forme of the statute, is voyd: and therefore our Dumble and Idoll Ministers, no Ministers at all.

Page

*ff. quando dies.
leg. vel. fidei.
sed quod pue
pille mutat.
gloss.*

Herennius Modestinus answered, that a Senator was not therefore a Senator, because he had his name onely in the table or register, where the names of Senators were written, vnles he also were made a Senator, according to lawe. And the glosse vpon that law verifieth the same to be an argument, *Contra eos qui non sunt rectè in Ecclesiis constituti*. Against those that are not rightly placed in Churches. If a Legacie be giuen vnto a Pupill whensoever she shall marrie, if she shall marrie before she be *Viri potens*, the Legacie is not due vntill she be *Viri potens*, *quia non potest videri nupta, quæ virum pati non potest: nec videri factum, quod non legi: imò fit*. Finally, in the preface of the booke of ordering Ministers, are these words. (And therefore to the intent these orders should be continued, and reuerently vsed and receiued in this Church of England; it is requisite, that no man, not being at this present, Bishop, Priest, nor Deacon, shall execute any of them, except

COMMAVNDED BY THE LAW.

cept he be called; tried, examined and admitted, according to the forme hereafter following.) And in the 13. yeare of Elizabeth, cap 12. it is enacted, that all admissions to benefices, institutions, and inductions to be made of any person, contrary to the forme or provision of this act, and all tollerations, dispensations, qualifications, and license whatsoever, to be made to the contrary hereof, shall be merely void in law, as if they neuer were. Another principall reason, why these idoll Ministers should not haue so much as the onely name, or title of Ministers in word, much lesse the place and benefite of Ministers in deede, may be, for that in deede and truth, they haue intruded themselves into the Ministerie, onely by fraude and deceite, and haue not entered therein, *Bona fide, & iusto iure*, In good faith, and by a iust title. He that knoweth a Pupill to be vnder age, and yet will contract with him without consent of his Tutor: or he that will receiue a Church from the hand of a Laye man: or he that will buye and sell things dedicate to religious vles, cannot in these actions meane any good faith, or vse any good conscience, because *qui contra iura mercatur, bonam fidem presumitur non habere*. He that against law maketh marchandise, is presumed not to haue good faith. Now in the manner and forme of making Ministers, and their admission, you haue heard of a solemne couenant and contract by open protestations on both sides, made betweene the Bishop, and the partie: the Bishop demaunding, *spondes? putas? facies?* Dost thou promise? dost thou thinke? wilt thou do? The party answering, *spondeo*, I do promise, *puto*, I doe thinke, *faciam*, I will do it. This contract or couenant by law Ciuil, is called *stipulatio verborum*, a sure bond made by words, and may be called a contract by word. By the law of England, it is called an assumption. And to the end this contract be good in effect, as in al other contracts, so in this especially it is requisite, that the same be made *bona fide interueniente*, good faith comming betwene, as wel on the part of the Demandant, as on the part of the answerer. For saith the Emperour. *Bonam fidem considerari in contractibus equum est*. Equity requireth that good faith be considered in contracts. And that, either to this ende. *Ut cesset dolus ad eorum essentiam*, or to this end, *ut cesset dolus ad eorum effectum*, that guile may cease, to the substance of the contract, or the guile may cease to the effect of the contract. For though according to the nature & condition of this contract by word, the party fraudulently deceived, be notwithstanding by rigour & subtilty of law bound to the contract: yet inasmuch as the lawe prouideth him a remedy against this mischiefe, & giueth him a peremptory exception, vnterly to exclude the agent from any benefit of his action: the contract, I say, in effect being reuerfible, is in effect no contract, & the aduerser partye to be cleared.

*Cod. de autoe
rita. praestand.
l. cum qui.
G. 7. si quis
demeceps ex
de simo. non
satis.*

*Cod. de autoe
rita. praestand.
l. cum qui.
G. 9. si quis
demeceps ex
tra. de simo.
non satis.*

*Extra. de res
gu. in c. qui
contra.
A contracte
made be-
twene the
Bishop and
the minister,
not obserued*

*In ff. pro solut.
l. 3. Cod. de vo
sur. l. venditio
ni.
In Cod. de ac
tio. & oblig.
l. bonam.*

*ff. de del. l. cle
ganter.
ff. de verb. ob
lig. l. si quis
eum.*

red from the performance thereof. *Quia contractus non fortitur effectum, propter exceptionem doli.* The covenant taketh no effect, by reason of the exception of guile. The law it selfe followeth. *Si quis, &c.* If any when he had couenanted to be bound after one maner, yet notwithstanding, by circumuention is bound after another manner, he shall in deede stand bound vnto thee, by the subtiltie of lawe, but he may vse an exception of deceit: for in as much as he is bound by deceite, an exception is giuen him. As for example: I haue promised vnto you my ground, excepting the vse of the fruite thereof, afterwards by collusion you perswade me to promise you y^e same ground, together with the vse of the fruite therof: this promise in effect is void, because you vsed deceit, in getting my promise. Pea, suppose that you for your part had not beguiled me, & that there had bene no deceit on your part, but that I had bene beguiled only, because the thing it selfe was wrongfull & inturvous: in this case also your action shall cease, & your w^{rit} shall abate. *Idem est, &c.* If no deceite on the part of the demandant haue bene vsed, but the thing it selfe hath in it deceit, it is all & the selfe same one case with the former. For when soeuer any man shall make a demand by vertue of that contract, inasmuch as he doth demand it, he doth it by deceit. As for example: suppose I haue bought in good faith, without collusion of you, a peece of plate, for lesse then the one halfe of the iust value thereof: as suppose for eight pound, which was worth twenty pound: afterwards I couenant with you simply, and you promise to deliuer me the same plate: in this case, if I sue you for the deliuerie of the plate, you may vse an exception of guile against me, because I deale deceitfully in demanding the performance of a contract, which in it selfe containeth iniquitie. For this contract it selfe is against the equitie of law, prouiding that a man should not be so vnprouident in selling his goods, as to sell them vnder the one halfe of the iust value. And therefore in this contract, being against law, appeareth a manifest iniquitie, because the plate being worth 20. pounds, was sold by you for eight pounds, a lesse sum then ten pound, halfe of the iust price, and therefore in it selfe by law without equities: and therefore neither to be demanded by me, neither to be performed by you. And to make this more plaine, and so to apply it to my purpose, *bona fides*, good faith, in this contract ought to be in this sort: You for your part, and I for my part, and we both ought in truth to thinke and be of opinion, that you haue interest and right in the plate, and so power to alienate, and to sell it vnto me. And therefore concerning the contract made betweene the Bishop and the partie, because the Bishop oftentimes knoweth the partie that is to be made a Minister by him, to be a man altogether vnlearned, unfit, and vnapt to execute

COMMANDED BY THE LAW.

execute his ministerie duely, and therefore cannot thinke him to be a man qualified as were requisite. And because the partie that is to be made a Minister, knoweth himselfe utterly voyd of those graces and gifts which ought to be in him, and therefore cannot beleue him selfe to be truly called, or moued to that office by the holy Ghost. And because they both knowe that there hath bene no such calling, no such tryall, no such examination, no such presentation, &c. As (by the forme and order of the booke) should be, I say therefore that good faith wanting on both partes, this contract made colourably betwene them is meereley voyde, and the one not bound by lawe to the other, to the performance of the same: and therefore much lesse the common wealth, or the Church of Christ to tolerate their conspiracie, or to beare with their collusion. *Non debes alterius collusionem aut inuicia alius ius corrumpi.* No mans right ought to be impaired by collusion or slouth of another. *Fraus & dolus nemini patrocinari debet.* Deceite and guile, ought not to patronage any. And therefore sithence, *Non est obligatorium contra bonos mores iuramentum.* An othe made against good manners, is not obligatorie: and that *Nemo potest ad impossibile obligari.* No man can be bound to a thing impossible, and that *Impossibile nulla est obligatio.* Of things impossible there is no band. And that, *In malis promissis fides non expedit observari.* It is not expedient that faith be kept in wicked promises, I conclude that the impossibilitie or inquitie of condicions to be performed by him that is made a Minister, make the contract betwene the Bishop and him, meereley void and of none effect in law. And that the Bishop, according to the true intent and meaning of the lawes, whereof he hath the execution, ought to cite, and *Ex officio*, to proceede, and object against him in this sort. You A.B. Parson of C. about twenty foure yeares passed, at what time I had appointed a solemne day for making of Deacons & ministers, & had called by my mandate, men meete to serue the Lord in his holy seruices, to teach his people, & to be examples to his flocke, in honest life and godly conuersation, came before me, making a great bragge and faire shewe of zeale and conscience, and of your knowledge in the holy Scriptures, and that you would instruct them faithfully, and exhort them diligently in the doctrine of saluation by Christ, and in holinesse of life: that you would exercise his discipline according to his commaundement; and that you would be a peacemaker: And all these things you faithfully promised, and tooke vpon you to performe, ioyning your selfe openly to the Lords people in prayer, with a solemne vowe. Now so it is, as I vnderstand, by your demeanor euer since, that in truth, you had no other ende, but to steale a liuing from the church, though it were with the mur-

ff. de Liber. causa. l. si pas riter.
Extravag. de regis iure. c. non est.
Extravag. co.

ff. de reg. in l. impossibilium.
Extravag. de reg. in malis
The impossibilitie of the contract made betwene the Bishop and the minister, cause that the contract is voyd.

A LEARNED MINISTERIE

ther of many soules. You dishonoured the Lord : you made an open lie in his holy Congregation : you circumvented me by guile, and by craft deluded me : you haue ever since falsified your worde : You haue not preached one Sermon these many yeares : you haue not instructed one of your parrishe in the doctrine of Saluation by Christ alone : you haue not gouerned your familie, as became one of your coate : you haue not exercised the Discipline of Christ against any adulterer, any swearer, any drunkard, any breaker of the Lordes Sabbothes : you haue bene, and are a quarreler among your neighbours : you cite them to my Consistorie, for toies and trifles, and so abuse my iudgement seate: you are an example of euill, and not of goodnes vnto your flocke: you meant no good faith at the first : you wittingly tooke vpon you a charge, which in your owne conscience, you knewe was impossible for you to discharge : you prophaned the Lordes most sacred name, in praying hypocritically before him : you haue not since repented you of these iniquities, but haue continued obstinate in the same, and therefore, in as much as you for your part without any good conscience, haue gotten you a place in the ministerie : I for my part, moued by a good conscience, and for the same my conscience sake, to discharge my duetie to the Lord, haue summoned you publikely, lawfully and rightly, to dispossesse you of that place, and depose you from that function, whereof, though publikely, yet vnlawfully and vnrighly, you are possessed : neither ought you, or any other to thinke me rashe, light, or vnconstant in so doing. For I tell you plaine, that herein I will both say, and doe that thing, which the noble and wise Emperour, sometimes both sayd and did, in a matter of farre lesse waight then this. *Quod inconsulò fecimus, consulò reuocamus.* That which we vnadvisedly haue done, we aduisedly will reuoke and vndoe. And Sir, for your part, it is verie necessarie and expedient for you, that we depose you in deede, because *Tantò grauiora sunt sua peccata, quanto diutius infelicem animam detinent alligatam.* So much more grieuous are your sinnes, by howe much longer they haue your vnhappy soule fettered with their bouldes. To doe this, or the lyke, were in my simple vnderstanding, a noble and famous practice of a good and godlie Bishop, labouring to procure peace and prosperitie vnto Ierusalem. What? may a Bishop depriue an honest poore man from his benefice, dispossesse a faythfull man of his Ministerie, stoppe the mouth of the Lordes watchmen, and imprison a painefull teacher in the Clink, in case he weare not a Surplesse, in case he marrie not with a Ring, in case he crosse not in Baptisme, or in case he subscribe not to euerie newe Article inuented by his

COMMANDED BY THE LAW.

Pag. 91. his Ordinarie? And may not the same Bishop remove a man that
 hath openly played the hypocrite, publickly falsified his word, im-
 piously committed sacriledge, yea, and that which is worse, hath
 made an open mocke at the lawes of God, and deluded the lawes of
 her highnesse Emperre? Is the first a lawlesse and rebellious Puri-
 tane. (I vse but their owne termes) and is the second a duetifull and
 loyall Cassall? If a Puritane (as they call him) making conscience
 to offende his God in any small thing, for his conscience sake be
 worthy to be whipped and excommunicated; is a Foolitane, making
 no conscience to offend his God in all things, not worthy once to be
 summoned? Concerning an olde obiection, perhaps by some olde
 Canoniste to be objected, that every sentence of the Bishop, whereby
 he pronounceth any man fit and capable of the ministerie, is a defi-
 nitue and irreuocable iudgement, in case no appeale be made from
 the same: though my former answer were sufficient for the same e-
 lection, yet to answer lawe with law: I answer, with the gloss, that
propter aliquam causam postea emergentem potest queri, quia que de nouo
emergunt, nouo indigent auxilio; & is a semel probatus, iterum probatur
& reprobatur. For some cause afterwards arising, inquisition may be
 made: because things newly happening, doe want a newe supplie;
 and so one being once allowed, may againe be allowed and dis-
 allowed.

*Extratus de
 elec. c. cum dis
 lectus.*

And therefore to conclude, if such as be in authoritie lone the peace
 and prosperitie of the Church of Christ: if they desire the good suc-
 cesse of the Gospell: if they will preserve the state of this Realme: if
 they thinke it necessarye, to haue good Magistrates, to haue good
 lawes and orders in a common wealth: If they esteeme learning,
 and seeke to preferre it: if they hate confusion: if they allow of their
 owne conditions, and like of a kingdome better then of a tyrannous
 state, then are they to provide betime some speedy remedie for these,
 and such like kind of men, and such maner of abuses. And if the religi-
 on they haue established be good: if the orders and lawes they haue
 made be conuenient; it standeth them in hand, to see the same reue-
 rently receiued and executed, and not openly to be contemned and
 broken, without sharpe and seuer punishment: they are not to suffer
 such as execute them not, to be vnccontrolled, vnbuked, and unpuni-
 shed they are not to suffer such as speake for them, preach for them, cal
 for them, and write for them, any more to be checked, taunted, frum-
 ped, and shopped by: either let their lawes be lawes indeede, and
 maintained as lawes: or els deliuer vs from our duties, in desiring
 their execution, and obeying them.

If by these former conclusions any shall surmise, that by them I

A LEARNED MINISTERIE

filly, and couerly, as one captious ouer the whole state of the church,
 should insinnate, no lawfull ministerie to be in England, because
 some one of these poynts, perhaps haue bene, and are daily omitted in
 making euen the best men that are in the ministerie at this day: I
 answer, touching as well the whole Church, as the learned and vn-
 learned Minister: the Preacher, and him that is no Preacher: the
 Pastor, and him that is no Pastor: I answer (I say) touching them
 all, as followeth. First, I confesse that our Lord Iesus Christ hath a
 true Church, and a faithfull spouse in England, receiuing the doc-
 trine, and sacraments of Christ, publikely taught and administred in
 the Church of England, wherein we haue Elizabeth, by the grace of
 God, Queene of England, Fraunce and Ireland, a Soueraigne, a
 sole, and a lawfull Gouvernesse, in all causes, and ouer all persons, Ci-
 uill and Ecclesiasticall. Moreover I confesse, that the doctrines de-
 liuered vnto her out of the word of God, by the Ministers, for the a-
 bolishing of all and all manner superstitions and abuses, retayned in
 the Church, and for the establishing of a perfect gouernment of the
 sayd Church, ought to be faithfully embraced, and diligently put in
 execution by hir Maiestie, according to the prescript rule of the ble-
 sed word of God. And againe, that the Ministers ought enermore, in
 a reuerent and holy feare, to teach whatsoever they know to be com-
 manded or forbidden by the same word, and to shewe the daunger as
 well to the Magistrate, as to the people, if either, or both of them shall
 be negligent, or remisse in the Lordes seruice. And againe, that the
 people in all holy and honourable obedience, should yeld vnto the
 Magistrates, and Ministers, all such loue, reuerence, feare, and obey-
 sance herein, as the Lord by his sacred worde prescribeth, and their
 owne saluation requireth. Againe, that neither the Magistrate with-
 out true instruction from the Ministers, nor the Ministers without
 due authoritie from the Magistrate, ought to wrest any thing into the
 gouernment of the Church. For both offices, and gouernments, ma-
 gistracie and ministerie, are very holy and honourable, and being se-
 uerall, tend to senerall ends, and bying forth senerall euents in the ad-
 ministration and gouernment of the Church: the one is the mouth,
 the other is the hande of God: the one by word, the other by sworde,
 ought to execute the Lords iudgements in the Lords house. The Pro-
 phet Esay, at the commandement of the Lord, teaching that the prin-
 ces of Iudah and Iernsalem should cast away the rich ornaments of
 gold, as a menstruous cloth, did stay himselte with the publishing of
 this his doctrine: he onely reformed himselte, and taught and exhor-
 ted others to doe the like. The Prophet Ieremy vsed onely this wea-
 pon of reformation. Of a truth, sayth he, the Lord hath sent me vnto

Page 9

you,

COMMANDED BY THE LAW.

Page 94.

you, to speake all these wordes in your eares: he hath sent me to prophesie against this house, and against this citie, all the things that ye haue heard: as for me, behold I am in your hands, doe with me as ye thinke good and right. And though Iehoiakim the King, with all his men of power, the Priestes and the Prophets slewe Vriah with the sword: yet ceased not Ieremiah to stande in the Court of the Lordes house, to speake vnto all the cities of Iudah, all the wordes that were commaunded him to speake, and kept not a word backe. When Hilkiah the Priest had found the booke of the lawe, and caused Iosiah to reade the same: it is written, that the King stood by the pillar, and made a couenant before the Lord, that he the King, and the Priestes, and the Prophets, and all the people both small and great, shoulde walke after the Lord, and keepe his commaundements, and his testimonies, and his statutes, with all their heart, and with all their soule. And that the King commaunded Hilkiah the high Priest, and the Priestes of the second order, to bring out of the Temple of the Lord, all the vessels that were made for Baal, and for the groue, and for all the holste of heauen, and that he the King burnt them without Ierusalem, in the fieldes of Kidron: and that the King carryed the powder of them into Bethel: and that he put downe the Chemerym, and that he brake downe the houses of the Sodomites: and that he brake the images in peeces, &c. When the spirit of the Lord came vpon Azariah, to tell Asa and all Iudah, and Beniamin, that the Lord was with him, whilst they were with him, encouraged them in their affliction, to turne vnto the Lord God of Israell, for that their confidence and trust in him should not be frustrate, but haue a rewarde: Asa hearing these wordes of the Prophet, was encouraged, and tooke away all the abominations out of the lande of Iudah and Beniamin. And King Asa deposed Maachah his mother, from hir regencie. And Asa brake downe hir Idoll, and stamped it, and burnt it at the byooke Kidron: and King Asa did all these thinges at the counsell of the Prophet. Nether can the holie doctrine of the Gospell be sayd to be repugnant herevnto. God is euermore one, and the selfe same God in all ages: he is euermore the authoꝝ of peace and order, not of discord, or disorder. If therefore the Lord haue not yet graciouly opened hir Maiesties eyes, to vnderstand all and singular misteries of his Testament: or if he will some blemish to remaine in the gouernment of a faithfull Queene, vnder the Gospell, as it pleased him to haue blot in the raigne of good Kings, in the time of the law: or if he will that the aduersaries of Iudah and Beniamin, hire counsellers to trouble their building, & hinder their denise, all the daies of Cyrus:

2.King.23.3.

2.Chro 17.

Page 95.

or if he will the Temple to be buile in the daies of Ezra the chiefe Priest, but the walles to be reedified by a Eliashib, and his brethren: or if he will haue his Church tary his holpe leaseure, and appointed time: or if he haue any other gloxions purpose to worke in our dayes by her highnesse: what is that to him that is a Minister of the Gospel? Onely it behoueth him to be a faithfull Steward in his function. For an woe hangeth ouer his head, if he preach not, because necessity is layd vpon him. And let him be assured, that whatsoeuer is either bound or loosed by him in earth, the same is bound and loosed by the Lord in heauen. The repentant and faithfull shall be forgiven: the obstinate and impenitent shall be hardened. And thus hauing deliuered my mind touching these things, which otherwise by sinister construction, might haue bene daungerous to my selfe, and offensive to others. Touching the former cauill, I answer as followeth. First, I confesse that euery one meete and apt to teach: that euery one qualified as is requisite: that euery one moued inwardly by the holy Ghost, and outwardly called and appoynted by the Bishop, hauing authority by the order of this Church of England in this behalfe, is in deede, and by lawe, a Minister. First, because he is in deede and truth a Messenger, sent and appoynted to this office by the Lord himselfe. Secondly, he is a Minister by the lawe of this lande. For the state of this man, learned, qualified, and inwardly called: and the state of the vnlearned, and vnqualified, and not inwardly moued, differ as much as light and darkenesse. For where the life, the learning, the conuersation, the paines of the former, doe appeare in deede to be sincere, sufficient, honest, and diligent, euen such as the lawe it selfe requireth, shoulde be in him, and so the ende of the lawe satisfied in that behalfe, in this case, and for this man, there is a presumption *Iuris & de iure*, of lawe and by lawe, that in his outward calling, and tryall, &c. all things required by lawe, were accordingly performed by the Bishop, and so he a lawfull Minister. But touching the other man, it is quite contrary, and therefore this presumption by lawe must cease. For where his life, his learning, his conuersation, doe appeare manifestly to be vile, corrupt, and vn honest, and not such as the lawe requireth, and so the lawe frustrated, in this case there is a presumption, *Iuris & de iure*, of lawe and by lawe, against him, that he came to his office *per surreptionem*, by stealth, and vnoorderly. Letters obtayned for enioying benefices, vntill it appeare they were obtayned, either *veritate tacita*, or *falsitate expressa*: truth concealed, or falshood expressed, are good, and to be obeyed: but if afterwards, either of these appeare, they shall be accounted surreptitious and voyd. A Bull or dispensation from the Pope authentically sealed, is presumed to haue bene.

Pag. 96.

Glos. extraneus.
de prebend. cii
secundum As
postolum ver.
hic est.

COMMANDED BY THE LAW.

beene gotten *bona fide*, in good faith : but if in the tenour there
 of appeare false Latine, it is then presumed to haue beene obtained
per surreptionem. A sentence giuen by a Iudge, is presumed to be a iust
 iudgement, and euerie one for the authoritie and reuerence of the
 Iudge ought so to deeme of the same. But in case the matter be
 appealed, and there be found a nullitie in his processe, the former
 presumption ceaseth, and the sentence as an iniurious sentence, is
 to be reuerfed. In like manner, if a Bishop should make an hundred
 ministers in one day, for the authoritie and reuerence of the Bishop,
 and the good opinion I ought to conceiue of his right and sincere
 dealing, of his holie religion and feruent zeale to the Lordes house
 (were I absent, and saw not his proceedings to be contrarie to law)
 as I ought, so I trust I should both esteeme his doings therein to
 be lawful, and orderly, and also reuerence those whom he had so made,
 as messengers sent from the Lord. But if afterward when any of the
 shall come to execute his office of ministerie : when hee came to teach
 the people, he should then manifest himselfe to be but an hypocrite,
 but to haue fained a certaine kinde of holinesse and zeale, when hee
 shall himselfe descrie his owne vnablenesse, and display his wants:
 were it reason, that hauing now by mine owne experience, certaine
 knowledge of his misdemeanour, and vn honest conuersation, of his
 vnaptnesse and unskillfulnesse, and of his ignorance, I should pre-
 sume, notwithstanding that he was at the first orderly called and ex-
 amined, and found to haue such qualities as were requisite? But
 to answer an other obiection, concerning the administration of the
 Sacraments by these kinde of men, and execution of their offices, be-
 cause hitherto no controuersie hath beene mooued, touching the va-
 liditie of their calling, of their state and condition, and because,
Cod. de test. lib. 1.
Cum incertum est aliquid, perinde est ac si nec illud sit. When any thing
 is vncertaine, the same is as though it were not at all: That there-
 fore (I saie) as wel in this case, and in this respect, as also *propter*
communem utilitatem, & publicum errorem, for common utilitie, and a
 generall error, the things done by them, are rightly and duely
 done.

Cod. de sen- tent. & inter- lo iud. l. si Arbitr.

98. *SI ARBITRER DATVS à magistratibus, cum sententi- am dixit, in libertate morabatur, quamvis postea in seruitutem depulsus sit, sententia tamen ab eo dicta habet rei indicatæ auctoritatem.* If anie
 arbiter giuen by the Magistrate were a free man when hee gaue
 sentence, though afterward the same arbiter be brought againe in-
 to seruitude, the sentence notwithstanding giuen by him, hath au-
 thoritie of iudgement. And againe, *Si quis patrem familias esse cre- dideris, non vana simplicitate deceptus, nec iuris ignorantia, sed quia*
publicè

ff ad Maced. l. si quis.

A LEARNED MINISTERIE

*ff. de suppl.
leg. l. 3.*

*Digest. de offi.
cio pratoris l.
Barbarius.*

publicè patrem familias plerisq; videbatur, sic agebat, sic contrahebat, sic muneribus fungebatur, cessabit senatus consultum. If anie shal thinke one to be a father of anie housholde, not deceiuing him selfe through a vaine simplicitie, or ignorance of law, but because he seemed to many to be a father of an housholde indeede; hee did as a father of an housholde did, he did couenaunt, he executed offices, &c. In this case the Senates decree shall cease. And againe, *Hodie (propter usum imperatorum) si in argento relatum sit candelabrum argenteum, argentum esse videtur, & error ius facit.* Nowadaies (because of the vse of Emperours) if a siluer candlesticke be accounted amongst his money, it seemeth to be money: and this error maketh law, &c. And againe, *Serui liberi non in hac causa tractari oportet, cum eo tempore, quo testamentum, &c.* When a testament is to be prooued by witnesses, it is not materiall whether the witnesses be bond or free, at the time they be produced, if at the time that the Testament was signed, they were by consent of all reputed in the place of free men, and that no man at that time mooued anie controuersie of their estate. *Propter publicam utilitatem & communem errorem, pretura seruo decreta, &c.* For publike vtilitie and generall error, a Pretorshippe given to a bondman maketh him Pretor: businesse dispatched by him are of force, and he made a free man: And therefore I answer, that things heeretofore done, and executed by our idoll Ministers, by lato to be rightly and duely executed. And yet notwithstanding I vyge still, that they are not in truth any lawfull Ministers, and that they ought, and may iustly be deposed from their ministerie, and depriued from their benefices. An Arbiter reputed to be a free man, if in truth he be a bondman, obtaineth not by this common opinion, or by giuing iudgement, his freedome and libertie, but continueth stil a bondman vnto him whose bondman he was, before anie iudgement giuen by him, or that any such fame went of his freedome: the Decree of the Senate ceaseth against me, for contracting with one vnder rule and gouernement, so long as he is generally reputed to haue power and authoritie ouer himself: but if I willingly contract with him afterwards it shall appeare that indeede he was a sonne, vnder the guard and tuition of his parents, then the decree shall be effectuell, and take place against mee, Witnesses at the time of signing any Testament commonly reputed freemen, after a controuersie mooued of their estate, may in other matters be refused, as vnlawfull witnesses. For though common error make a lawe in respect of publique profite, yet common error plucketh not from anie pprivate man the possession or interest of his pprivate goodes. And therefore though Barbarius Philippus, in that the people decreed

vnto

COMMANDED BY THE LAW.

unto him the Pretorship, was by the decree made a freeman, (the people of Rome having authoritie to make a Freeman :) yet for that hee was indeede a seruant fugitiue from his Master, his Master was by law to haue the price of the same his seruant at the peoples handes : much lesse can common errour of a few in authoritie, or a common errour of a few in their owne right barre the publique wealth, or the Church from a publique benefite due vnto them. But there is a defence commonly vsed by some, to excuse the Bishoppe, and to exempt them from iust reprehension, for placing vnlearned men in benefices. The Patrones (say some) are couetous, they wil present none, but such as from whom they may either hire the benefice againe for some small rent, or haue some annuall reuenue out of the same. And if the Bishop (say they) shall refuse to admit this couetous Patrons Clarke for insufficiencie, or for euill conuersation, he may bring an action, *Quare non admisit*, against the Bishoppe, and so the matter being put in triall vnto the Country, the Bishoppe, by this meanes might not onely be counted litigious, but also should be at great expences through the multitude of sutes in law, brought against him continually by such kind of Patrones: and yet the matter passing against him by the verdict of iurymen, in her highnesse secular Courts, no remedie at all against this great mischief. A high point in a lowe house: if the matter were true, as it is but fained. For to let passe, that the Bishoppes office is *oneris*, and not *honoris*, more paineful, than gaineful, *Es damnnum quod quis sua culpa sentit, sibi debet, non alijs imputari: & qui sentis commodum, debet sentire onus*. The hurt which a man sustaineth by his owne fault, ought to be imputed to him selfe, and not to others: and he that tasteth the sweete, ought also to taste the sower. And to lette passe, that the Bishoppes haue according to their Canons, earnestly and diligently exhorted Patrones of benefices to consider the necessities of the Churches, and to haue before their eyes the last date, the iudgement and tribunall seate of God, and that therefore they preferre no man to any Ecclesiasticall living, but him which by doctrine, iudgement, godlinesse, honestie, and innocencie of life, is able to beare so heauie a burthen: that they doe nothing therein, but vprightly, vncorruptly, and truly. To lette these passe, I saie, I aske, Who made this euill man, or this vnlearned man presented by a couetous Patrone, a Minister? Did the couetous Patrone? No, hee is a lay man, hee may giue no orders. And what reason is it then that a Bishop should finde fault with a patron, presenting an vnlearned man to a benefice, whom he himselfe before had preferred vnto

De reg. iuris
l. 6. c. *damnum;*
De reg. iuris
l. 6. *qui sentit.*

Title patrons s. pro
prietaries.
fol. 27.

A LEARNED MINISTERIE

*Lib. G. de res
script c. fin.
Extra. g. de
nat. & quas
litat. c. accepis
mus iunct.
Glos. in c. cum
secundum.
Apostol. om.
vers. licet.
extra. De pres
bend.*

So high an office, as is the office of the ministerie? Is the benefice of more value than the office? Yea rather, is not the benefice due onlie by reason of the office? If a man then be unworthie of a benefice, is not the same man much more unworthie of an office? If unwise Bishops did not make vnlarned ministers, couetous patrons could neuer present vnlarned Ministers: yea, and I say more, *Quos idoneus Episcopus reputauit ad ordines, debet reputare idoneos ad beneficium.* Whom the Bishop hath reputed meete vnto orders, them he ought to repute meete vnto a benefice. But (alas) these couetous patrons are great beames in the eyes of the Bishoppes, Pluralitie-men, and Nonresidents. They feare, if a couetous patrone may catch a simple pooze man to bestow a benefice on him, allowing him twentie poundes or fortie markes by the yeare, and he to haue the profites, that the fat should be wiped from their owne beardes: and for that hereby they themselues are barred sometimes from fiftie poundes, sometimes from a hundred markes, sometime from an hundredth pounds: and yet themselues allowing their owne Curates not past ten poundes, or twelue poundes at the most: yea, and sometimes binding them to to prouide their quarter Sermons too. I hope a Christian in modestie, displaying vncristian practises, may without offence report a merie and true tell. And therefore vpon a time in the audience of manie standers by, it happened this Pluralitie-man, and Nonresident, taking oportunitie by the presence of a Patrone at the table, and entring into speech of these matters, seemed to lay the whole fault of not hauing the people better taught, and hauing so bad men in the ministerie, vpon such patrones as he supposed to be present at the Table: The Gentleman hearing his discourse, and perhaps galled too, and knowing him to be a Pluralitie-man, and a Nonresident, in the end made this demaund of him. Sir (saith he) is it not as lawfull for me, a pooze Gentleman in the countrie, hauing the patronage of a benefice, to bestow the same vppon some honest pooze man, conditionally, to let me haue the profites thereof at a reasonable price, allowing him a reasonable stipend for his seruice and paines in the ministerie, though he can not preach; as it were for me to giue the same benefice vnto you an Orenford man, and a great Scholler and able to preach, and yet will not, or do not preach? Is it not as lawfull for me to place such a one (as I haue spoken of) in a benefice of my gift, and to allowe him his wages sixteene or twentie poundes by the yeare, and to get quarter Sermons preached for him: as it were lawfull for you (had I frankly bestowed the same benefice vpon you) to hire the same person, or some other more ignorant, and to giue him lesse wages, and scarcely to preach

COMMANDED BY THE LAW.

preach quarter Sermons your selfe? Had not this man suddenly
 bene stricken dumb and dead as a dooze naille, you shoulde as well
 haue heard his replie, as you haue read the demaund. And in good
 sooth, what greater losse and hinderance hath the people of M. by an
 vnlearned man, their Parson not preaching, and hiring out his be-
 nefice to his Patrone, for fiftene pounds by the yeare, than hath the
 people of P. by a learned man, their Parson not resident, not prea-
 ching, and hiring out his benefice of the same valewe to his Curate
 for fortie pounds by the yeare? Surely, as there commeth no grea-
 ter good to the people of the one place, by the one, than commeth to the
 people of the other place by the other: so is the one both lesse hurte-
 full to the common weale, and also lesse sinnefull to the Loyde than
 the other. Lesse hurtfull, because the poore and needie of the one,
 haue oft a good Riuer of breade, a good dish of drinke at the Pa-
 trones dooze, yea sometimes a good meales meate at his table, and
 a good fire in his Hall. But touching the hospitalitie and house-
 keeping of a Nonresident, his kitchen chimneys are euer like the
 nose of a dogge, euer colde, neuer warme: his Bailie playeth sweep
 stake, he purseth his wheate in a fire-pennie bagge, and carrieth
 his barley in a little budget, sometimes fortie miles, sometimes
 an hundred miles, sometimes three hundred from his Parsonage:
 yea out of Ireland into Cambridge, out of Wales into Drenford,
 from beyond Lincolne to Salisburie, from besides Leicester to
 Cumberland, from Galburne to Harley: lesse sinfull to the Lord,
 because the Patrone enioieth his right by couenaunts and goodwill
 of him that by Lawe is reputed the lawfull person, and whom he
 hath presented: yea oftentimes also with the consent of the people,
 whose Clarke they willingly receiue to be placed amongst them.
 But the person Nonresident, against his promise to his Patrone,
 against his othe to his Ordinarie, without consent of the people,
 against the lawe of man, and against the ordinance of the Loyde,
 robbeth and spoileth the people of the tenth of their labours, and li-
 neth idly, by the sweate of other mens browes. But to let passe
 the answere made before to the Pluralitie man, and to speake no
 more of the Bishops owne wilfull negligence in making unlaw-
 full Ministers, and that therefore, he hath no cause to complaine
 against Patroness, for preferring unlawfull men to benefices,
 whome hee hath unlawfully preferred to so high offices, and there-
 fore not to be pitied, in case by lawe hee were punished, be-
 cause hee shoulde haue looked before hee had leaped: I saie to
 let this passe, yet the obiection made before in their defence, is an
 obiection in truth not to be objected. The triall of the abilitie
 of

A LEARNED MINISTERIE

of the person presented, whether it consist in learning or in life, is, and ever hath beene onely in the authoritie of the Church, and neuer in the power of the Laitie. First, touching the enquire of their abilitie for learning, (to leaue to speake of the Canon Law, which altogether attributeth the same vnto the Cleargie) the Ciuill law, and the Canon laws of this realme agree herein together, and attribute the enquire thereof to the Cleargie onelie. The Ciuill lawe saith thus: If they which are chosen by them as men vnworthie, be forbidden to be ordained, then let the most holie Bishoppe procure such to be ordained, whom he should thinke meetest. And thus we decree moreouer, that thing to belong to the honor & worship of your seate, that none building a Church, or otherwise bestowing almes vppon them that minister therein, be thus bold, as by power to bring vnto your reuerence men to be ordained: but our minde is, that by your Holinesse and iudgement, they be examined touching the idoneitie of a person presented to an Ecclesiasticall benefice: by the lawes of the realme, the examination of him likewise pertaineth to the Ecclesiasticall Iudge, and so it hath hitherto beene vsed, and so let it be done heereafter. And againe, Where the Ordinarie refuseth the Clarke for non abilitie which is in issue, & the Ordinarie is partie, that shal not be tried by him because he is partie, but by the Metropolitane, if the Clarke be alieue, and if he be dead, then by the Countrie where the examination was had. And againe, Where the Ordinarie, after the parrone hath presented, doth enquire and finde the Clarke to be criminous, and the time of the lapse by this meanes passe, there he shall not make any collation by lapse, but first giue notice vnto the partie, if he be a laie man: but contrariwise, if he be a spirituall man, note the difference: For he may know his owne Clarke. But were it so, that the Laitie had power therein, and that the Archbishop were excluded yet if the Bishop, after he were compelled by proesse from any of her highnesse temporall courts of Justice, to admit an vnable Clarke, did forthwith call this vnable Clarke into his Consistoye, and object against him his vnabilitie, and for the same degrade him of his office, What remedie had the same Clarke against his Ordinarie in this case? He being once deposed from his office by his Ordinarie, the common lawes should haue now no remedie to helpe him, he being no more to be called a Clarke, and therefore not to bring anie suite, or commence anie sute against his Ordinarie in the name of a Clarke. But we wil conclude. Since the statute of 25. Henrie the eighth hath authoized all Canons, Constitutions, and Synodalles prouinciall, made before that statute, not being contrariant or repugnant

*Authen. de
iur. ep. & §
clericos coll.
nona.*

*Authen. vt
clericus qui
reced. § illud
quoque coll.
quint.*

*Articuli cler
vic. c. 13.*

*39. Ed. 3. fol. 1.
Booke title
Trial. 25. case*

*Booke title
Notice 6.
case.*

COMMANDED BY THE LAWES.

pugnant to the lawes and customes of the realme, nor derogatorie to her Majesty's prerogative royall, to be nowe in force and executed: and also since these Canons, Constitutions, and Synodalles pronounced before specified, were made before the said statute, & be not contrariant nor repugnant to the lawes & customes of the realme, nor derogatorie to her highnesse prerogative royal: yea since they are agreeable to the lawes & usages of the realme, and uphold her prerogative royall: And, since by these canons & other Acts of Parliament, and her highnesse Injunctions it is evident, that men learned, that men apt & meete to teach, are to be placed Ministers in the Church, and that men utterly unlearned, and such as can onely reade, to saie Mattens or Masse, are not to be admitted: that therefore a learned Ministerie is commaunded by the Lawes of England: And if so, then an unlearned Ministerie forbidden by the same Lawes: and if so, then by

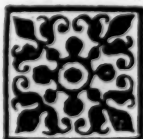
the same Lawes, such penalties and corrections to be laid and inflicted upon the contemners of the said lawes,

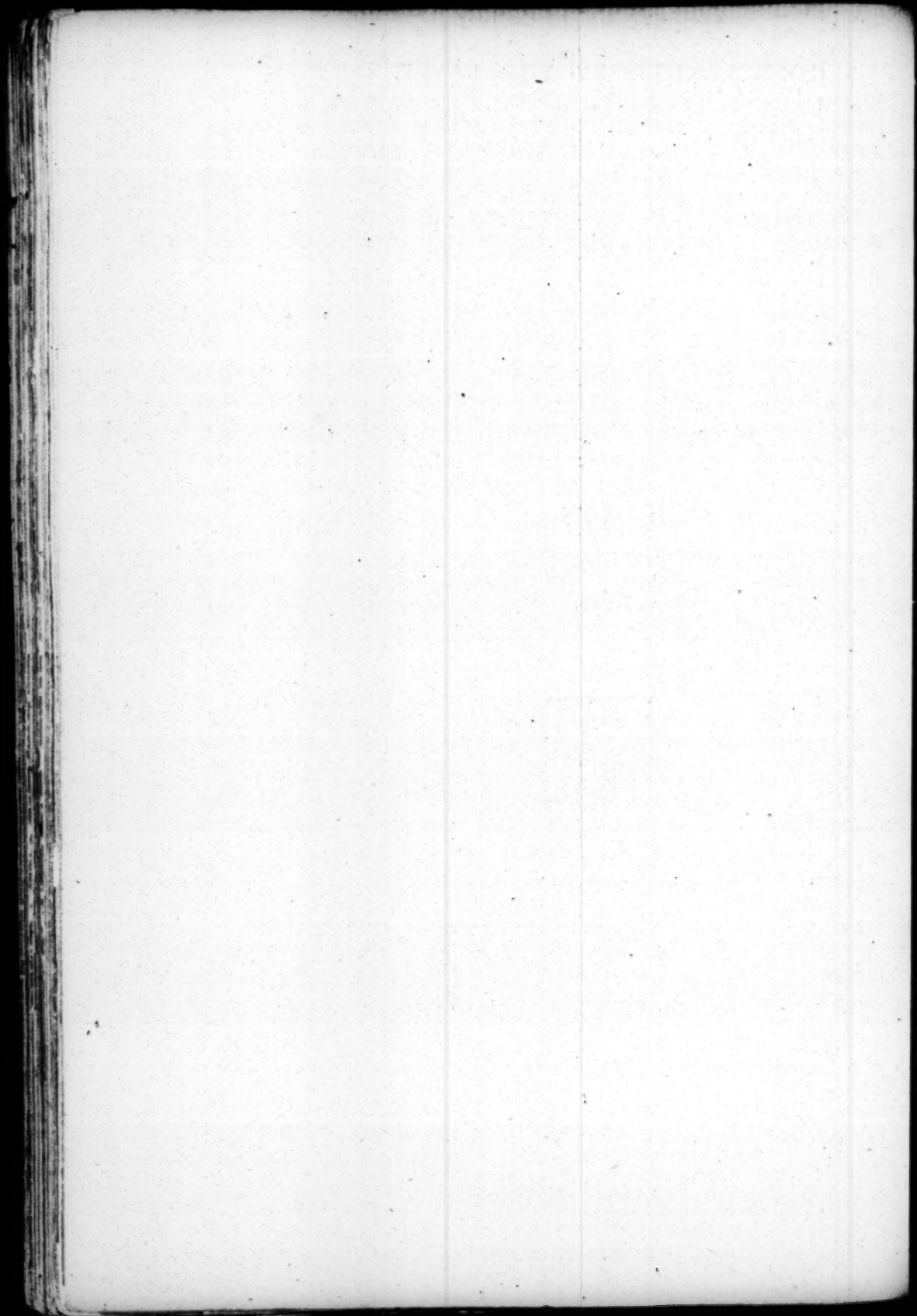
as by the said lawes are holisomly provided

against such wilfull

Law-breakers.

Dispensations.







DISPENSATIONS

FOR MANY BENEFICES

vnlawfull.



VIA NONNULLI, &c. Forasmuch as some, putting no measure to their couetousnesse, endeavour to take many Ecclesiasticall dignities and many Parish Churches, against the ordinances of holie Canons, and being scarce able to discharge one office, yet notwithstanding challenge vnto themselves

Extra de ele. non resi. den. c. quia nonnulli, &c. i. de consuet. lib.

pende due vnto many: vve straightlie command, that hence-forth this abuse be not anie more permitted: And that vvhensoeuer anie Church or Ecclesiastical ministerie ought to be comitted, vve will such a parson to be sought, that may bee resident in the same place, & discharge the cure by himselfe. And if anie thing shal be done otherwise, let both the receiuer loose that that he hath so receiued, and let the giuer be depriued of power to giue againe. Out of which prohibition these conclusions may be made.

- 1 Whatsoever tendeth to the maintenance of couetousnesse is vnlawfull:
- 2 But to suffer one man to inioy manie benefices tendeth to the maintenance of couetousnesse:
- 3 Therefore for one man to haue manie benefices is vnlawful.

- 1 Whatsoever is contrarie to the holie Canons, is not to be tollerated:
- 2 But for one man to haue many Churches with cure of soules, is contrarie to the holie Canons:
- 3 Therefore, for one man to haue manie Churches with cure of soules, is not to be tollerated.

- 1 Whosoever taketh vnto himselfe the stipend due vnto manie, the same doth commit an vnlawfull act:
- 2 But he that taketh vnto himselfe manie benefices, taketh the stipends due vnto manie:

I. i.

3 There-

DISPENSATIONS FOR MANY

3 Therefore hee that taketh vnto himselfe many benefices,
doth commit an vnlawfull act.

1 Whosouer is scarce able to discharge his office in one place, is
not to haue the office of many committed vnto him in ma-
nie places :

2 But he that hath the cure of soules committed vnto him in
one place, is scarce able to discharge his dutie in f one place:

3 Therefore he is not to haue the offices of many committed
vnto him in many places.

1 Whatsoever is an hinderance to him that hath cure of soules
to be resident, & to discharge his cure, by himselfe, the same
is not to be suffered :

2 But for one man to haue many benefices, is an hinderance
for him to be resident, & to discharge his cure by himselfe:

3 Therefore it is not to be admitted, that one should haue ma-
ny benefices. Againe:

*Extrana.g.
de pre-
bend. quia
in tantum.*

QUAI NTANTVM, &c. Because the ambition of some
hath spread it selfe so farre, as that they are said to haue, not
onely two or three, but many Churches, being not able duly
to serue two: vve vvith the consent of our brethren & fellow Bi-
shops, cōmand that this be reformed. And because the multitude
of prebends, euē an enimie to the Canons, is an occasiō of a dis-
solute & gadding ministerie, and conteineth a manifest perill of
soules, vve vvil therfore prouide to supply the vvāt of such as are
able to do seruice in the Church. The reasons of which decree
may thus be framed.

1 Whatsoever is or may be a meane to maintaine ambition, is Pag.
not to be tollerated,

2 But for one man to haue many benefices, is a meane to
maintaine ambition:

3 Therefore for one man to haue many benefices is not to be
tollerated.

1 Whatsoever ministereth matter for a gadding, roaging, and
dissolute ministerie, is not to be tollerated :

2 But for one man to haue many benefices ministrereth mat-
ter for a gadding, a roaging, and a dissolute ministerie :

3 Therefore for one man to haue many benefices is not to
be tollerated.

1 what=

BENEFICES VNLAWFVLL.

- 1 Whatsoever containeth perill of soules is not to be tollerated :
- 2 But for one man to haue many benefices containeth perill of soules:
- 3 Therefore for one man to haue many benefices is not to be tollerated.

- 1 Whatsoever is cause , that such as are able to doe seruice in the Church , doe want , and so are kept backe from doing the Church good, is not to be tollerated:
- 2 But for one man to haue many benefices, is a cause, that diuerse able to doe seruice in the Church, doe want, and so are kept from doing good :
- 3 Therefore for one man to haue many benefices is not to be tollerated. Againe.

VNDE CVM IN EODEM, &c. Sithence therefore it is ordained in the same counsell, that whosoever shall receiue anie benefice vvith cure of soule annexed, if before he obtained the like benefice, should by lawv it self be deprived of the same, and should also be spoiled of the second, in case he contented to holde the first, the foresaid elected notwithstanding breacking these ordinances by the pluralitie of benefices, doth incurre himselfe these vices, vvhich he should improue in others, euen couetousnesse & breach of lawv. And by retaining benefices, vvhich belong not vnto him, forsomuch, as vpon the receit of a second benefice, the former by lawv is meereley voide, hee hath by consequence contracted another mans goods, & so committed theft, or rauine, he retaineth moreover the said Parish churches, both to the detriment of his ovvne saluation, and the health of other mens soules, forsomuch as he being by lawe it selfe deprived frō these benefices, the cure of their soules did no more belong vnto him, and so were they damnably deceived. Out of which constitution one other conclusion may thus be gathered.

*Extravag.
de electio.
ca. dudum.
2. vnde,
&c.
Ex tra-
uag. de
prebēd. ca.
de multis.*

- 1 Unlawfully to take that which belongeth to another man, and so after a sorte to commit theft or rauine, is vnlawfull and not to be tollerated :
- 2 But he that hath manie benefices, doth by vnlawfull meanes take to himselfe that which belongeth vnto another, and therefore after a sorte committeth theste or rauine ;

I. 2.

3 There

DISPENSATIONS FOR MANY

3 Therefore, &c.

89. Di-
stinc. c. sin-
gula.

ECCLESIASTICI IVRIS officia singulis quibusque personis sigillatim committi iubemus, &c. We command, saith hee, that singular offices belonging to the right of the Church, bee committed seuerallie to singular persons. For, as in one bodie we haue manie members, and all members haue not one office, so in the bodie of the Church, there are manie members, according to the true saying of S. Paule, in one and the same spirituall bodie, this office is to be committed to one, and that office to another, neither is the charge of two things to be committed at one time to any one person, be the said person neuer so cunning or expert. For if all were the eie, where were then the hearing. For as the varietie of the members, hauing diuerse offices, both kepeth the strength of the bodie, and preserveth the beautie thereof: Euen so diuers persons hauing diuers functions, distributed vnto them, make manifest the strength & comelinesse of the vvhole Church. And, as it is an vncomelie thing in the bodie of man, that one member should do his fellow members office: Euen so is it hurtfull and most vicked, where the ministerie and function of seuerall things shall not be distributed to so manie seuerall persons. And in another Chapter. Let no elder haue two Churches, both because it is a proper kind of merchandise, and filthie gaine, and also altogether contrarie to the custome of the Church. From whence I conclude thus:

Page

16. q. 7. c.
per Laicos
in fi.

- 1 Whatsoever is contrarie to a good custome of the Church, is not to be tollerated:
- 2 But for one Clarke, to be placed in two benefices, is contrarie to the good custome of the Church:
- 3 Therefore for one Clarke to be placed, &c.

- 1 Whatsoever is a proper kinde of merchaundise, and filthie gaine, is to be auoided in the Church:
- 2 But for one man to haue many benefices, is a proper kind of merchandise, and filthie gaine:
- 3 Therefore, &c.

- 1 Whatsoever is vndecent and vncomelie in the Church, is vnlawfull:
- 2 But for one man to be placed in two benefices, is vndecent and vncomelie:
- 3 Therefore for one man to be placed in two benefices, is vnlawfull.

BENEFICES VNLAWFULL.

lawfull.

BESIDE these Canons, there are manie mo, establishing the not hauing of many benefices for one man: but to recite all, were a labour superfluous, considering y^e effect of al is contained in these. And yet *Offobones* prouinciall constitution, wherein diuerse other absurdities, then wherof mention hath bene yet made against the vnlawful retinue of many benefices, are expresse alleadged, is not amisse to be repeated, who saith as followeth.

112. *EX HIS AVTEM, &c.* VVe suffice not to speake, how great euils proceed out of these pluralities vnto the Church: For by the the honestie of the church is defiled: Authoritie is naught set by: the faith of Christ is troden vnder foote: loue is banished, the hope of the poore expecting anie voided benefice is frustrate: The miserable & blind sinner boasting himselfe as a guide, doth not so much receiue, as steale that that belongeth not vnto him. Among the rich themselves also strifes and contentions arise, braules & enuies are nourished. And for this cause vve chiefly feare the fire of God his vvrath, to haue bene kindled against men of such rule, & for the offences of some to haue sent a feare or reuenge against all: and vvhilest vve see nothing so perillous, vve feare such or grieuouser things in time to come, vnlesse God by his mercie respecting vs, shall lay to some vvhole some remedie. If the disease and maladie of pluralities, in time of ignorance and superstition was such, that the blinde leaders of the blinde, had their eyes in their heads to see the infection therof to be most perillous, as well to their synagogue, as to their common weale: how is it possible, that plurished men in the time of y^e knowledge and truth of the Gospell, should finde anie meanes to escape the fire and reuenge which the idolatozs feared. And not onely these Canons and prouincials, but the statute lawes of England also made against these excesses, prohibite likewise the hauing of mo benefices, as appeareth by an act of Parliament, made the 21. yeare of Henrie the 8. the tenor whereof ensueth. And be it enacted that if anie person or persons, hauing one benefice with cure of soules, being of the yeerelie value of 8. pounds or aboue, accept and take anie other with cure of soule, and be instituted and inducted in possession of the same, that then and immediatlie after such possession had thereof, the first benefice shall be adiudged in the lawe to be voided: And that it shall be lawfull to euerie patron, hauing the aduowson thereof to present another, and the presented to haue the benefit of the same in such like manner and forme, as though the incumbent had died or resigned: Anie lisenche, vnion, or other dispensation, to the contrarie here-

A. 3.

of

*Offob. de
inst. seu
collat. ca. 2*

s. p. 2.

DISPENSATIONS FOR MANY

of obtained notwithstanding: And that euerie such license, vniõn, or dispensation had, or heereafter to bee had, contrarie to this present act, of what name or names, qualitie or qualities, so euer they bee, shall be vtterlie void and of none effect. As touching anie other Canons made and in force, befoze 25. Henrie 8. allowing certaine immunities, priuiledges, and dispensations to be graunted, for the possessing of manie benefices and Parish Churches rightlie vnderstood, are no waie p̄iudiciall vnto these former ordinaunces. For in things depending vpon the meere disposition of man, though the magistrate haue authozitie, as well generallie to forbidde and prohibite, as also in some cases besides the said lawe, to license and dispence: Yet concerning the matter of pluralities, it will not be found. Pluralists (I confesse) and their abettours, ground their assertions vpon these and such like rules following: viz. *Eius est destruere, cuius est construere: eius est interpretari, cuius est condere: Papa qui ius condidit, est supra ius, maiorem enim retinuit potestatem, &c.* That is, To him it belongeth to pull downe, to whom it belongeth to set by: and the interpretation of the lawe belongeth to the lawe maker: the Pope that made the lawe, is aboue the lawe, because he hath retained a greater power to himselfe, then he hath giuen to the lawe: The Pope hath a fullnesse of power to dispose of benefices at his pleasure. And therefore saie they, As Churches were at the first by Lawe positieue, both founded and distinguished: so may they againe by the same Lawe positieue, either be cleane taken awaie, or vnited. Which vnnesse and sophisticall consequence, is simple to bee denied. First, for those former rules, generallie vnderstoode without limitation and distinction, bee either vtterlie false, or else contrarie and repugnaunt to other principles of Lawe. And againe, concerning these or anie other like generall conclusions in lawe, I aunswere, and that by an vnfallible maxime in lawe, that no rule can be so generallie giuen in thinges of meere policie and disposition of man, onlie deuised by man, (of which sorte these former rules are) that receiueth not some limitations and restrictions. And that therefore these principles, wherevpon the foundation of pluralities is layde, being weake and easilie shaken with a little blast of mannes wit, cannot stande or haue anie sure setting, in as much as against the same manie challenges may bee made, and manie exceptions taken. Secondlye, the foresayde coherence followeth not, for two apparaunt and principall fallacies contained in the same, as afterwardes shall bee manifested. But first touching these rules befoze mentioned: *Eius est destruere cuius est construere, &c.* Wee may heare

BENEFICES VNLAWFVLL.

break a Lawe, that may make a Lawe, the same is not alwaies true. It taketh no place, *Vbi causa prohibitionis est perpetua*, where there is a perpetuall cause of a prohibition: For then the cause being perpetuall, the prohibition ought to bee perpetuall.

Quia perpetuam habet causam prohibitionis, nulla est obligatio. Be- *Fi, de*
cause it hath a perpetuall cause of prohibition, there is no obli- *verb. oblig.*
gation, As for example: the reason and cause of prohibition a- *l. si stipuler*
gainst murther, thefte, rauine, blasphemie, is perpetuall, and *in id. &*
therefoze the Lawe against murther, thefte, rauine, and blas- *glos. extra.*
phemie, ought to bee perpetuall: And therefore man hauing *de simo. c. si*
once made Lawes against these vices, it is not lawfull for man *quis. ver.*
afterwardes to dispence with these vices, or by license to war- *iuramen-*
rant anie man to sicale, to kill, to spoile, or to blasphemie. For *tum.*

115.

whosoever shall in this sorte dispence with a Lawe, the same also may dispence with the reason of the Lawe, and so with the soule and life of the Lawe, und so make the Lawe a vaine and dead Lawe. *Ratio legis est anima legis.* The reason of the Lawe, is the soule and life of the Lawe: and therefore as none may dispence with the reason of the Lawe, or take awaie the soule and life of the Lawe: so none may dispence with the law, or take awaie the Lawe. Now for as much as it is not law- full for all the Princes in the earth to chaunge or dispence, or take awaie the reasons and causes of the Lawes prohibiting manie benefices: Therefore it is not lawfull for them to chaunge or dispence, or take awaie the Lawes against pluralities. The reasons wherebyppon pluralities are forbidden, are reasons taken from the Lawe of Nature, and from the equitie of the Lawe of God: but none can alter or take awaie the lawe of

Nature, or dispence with the lawe of God: therefore none can *Institutio.*
alter, or impugne, or dispence with the reasons of either of *de iure.*
them. For as the lawe of Nature is immutable: so is the *nat gen. &*
reason of the Lawe of Nature immutable: and as the *ci. § sed*
will of GOD is vnchaungeable, so is the equitie of his Law *naturalis.*
vnchaungeable to. If then naturall reason bee the cause and *lam.*
soule and life of a naturall Lawe, and the will of God the one-
lie cause of the Lawe of God, and his onelie will the rule of all
iustice vnchaungeable, none can challenge authoritie to chaunge
or dispence with the Lawe of Nature or with the Law of God,
but hee must forth-with challenge authoritie to dispence both
with the reason of the Lawe of Nature, and with the plea-
sure and will of GOD. And therefore out of the premises I
conclude thus.

DISPENSATIONS FOR MANY

- 1 Wheresoever the cause of a prohibition is perpetuall, there the prohibition ought to be perpetuall :
 - 2 But the cause of the prohibition against pluralities is perpetuall :
 - 3 Therefore the prohibition ought to be perpetuall.
-
- 1 Euerie lawe grounded vpon the reason of nature and the equitie of the lawe of God is immutable :
 - 2 But the lawes prohibiting pluralities, are grounded either vpon the reasons of nature, or vpon the equitie of the lawe of God :
 - 3 Therefore all the lawes prohibiting pluralities are immutable.

*Institut.
de iure na-
tu gent.
Et ciui.
Sed natu-
ralia.
Iames.*

THE first proposition of the first syllogisme hath beene proved alreadie : the first proposition of the 2. syllogisme is manifest, *Omnia naturalia sunt immutabilia* : All naturall things are immutable, and there is no altering or shadowing by turning with the almightie. The second proposition of either syllogisme shall bee manifested by that that followeth. But first to answer the falacies before spoken of, because pluralities are not forbidden by lawe positive of man alone, but prohibited also by the lawe of nature, and by the lawe of God : therefore it followeth, that they may not be tolerated by lawe positive of man alone. And therefore if pluralitie men would fitly argue to conclude their purpose, they should frame the same after this sort.

- 1 Whatsoever is prohibited by the law of man alone, the same by the lawe of man alone, may be licensed againe :
- 2 But pluralities are forbidden by the lawe of man alone :
- 3 Therefore they may be licensed by the lawe of man againe.

THE second proposition of which syllogisme being utterlie false, you see evidently wherein the conclusion halteth, and the falacie consisteth, & therefore I conclude against them thus.

- 1 Whatsoever is forbidden by the lawe of nature, & by the law of God, & same cannot be licensed by the law of man alone :
- 2 But pluralities are forbidden by the law of nature, and by the lawe of God :
- 3 Therefore they cannot be licensed by the lawe of man alone. And againe.

1 What-

BENEFICES VNLAWFVLL.

- 1 Whatsoever ratifieth a thing monstrous and against nature, & same may not be priuiledged by the law of man:
- 2 But dispensations for pluralities ratifie monstrous things, and things against nature.
- 3 Therefore dispensations for pluralities may not be priuiledged by the lawe of man.

The second proposition of the first syllogisme, shall be proued in this place. The second proposition of the last syllogisme, I proue from the etymologie or description of a priuiledge or dispensation: for a priuiledge, and a dispensation, in effect signifie both one thing. *Privilegium dicitur, quod emanat contra ius commune in fauorem aliquarum personarum: super prohibitis dispensatur, quia permissu, iure communi expediuntur, prohibita vero dispensatione egent.* A priuiledge is said to bee that, that for the fauour of certaine priuate persons, commeth forth against common right: things prohibited are dispensed with, because things permitted are dispatched by common right, but things forbidden require dispensation. By which descriptions of a priuiledge and dispensation, it is apparant, that a priuiledge and dispensation for pluralities, must license and authorize that, that the lawe against pluralitie dooth infringe, and disallowe, and so bee a lawe contrariant, and repugnant to the Lawe against Pluralities: but the Lawe against Pluralities, is the lawe of nature and the lawe of God: Therefore a priuiledge or dispensation for Pluralities is against the lawe of Nature, and against the lawe of God: a more monstrous lawe was neuer established. Nowe that Pluralities are forbidden by the lawe of Nature, and by the lawe of God, which was the second proposition of my first Syllogisme, I proue thus. All the reasons whereupon the positive Lawe of man against Pluralities was first established, are taken and drawne from the Lawe of Nature, and from the Lawe of God: The reasons and causes of the prohibition are these: First, the auoiding of Couetousnesse, of Ambition, of Theft, of marther of Soules, of a dissolute, a roaging, and a gadding Ministerie, the necessitie of comelynesse and decencie in the Church, are speciall and primarie causes for the prohibiting Pluralities: but all these are forbidden or commaunded by the lawe of God: therefore the causes of the prohibition of Pluralities are grounded vpon the will of God, and therefore immutable, and therefore not to be dispensed with. Againe, for one man to haue the stipends of manie men: for one man, not able to discharge his dutie in one place, and yet to haue many charges in

A. 5.

many

*Glos. lib. 6.
de rescript.
c. vers. in
principio.
Extra. de
iudic. c. At
si clerici. §
de adulteris.*

DISPENSATIONS FOR MANY

manie places committed vnto him: for one man to hinder another man from ordinarie meanes to doo good to the Church: all these causes I saie are second causes for the prohibition of Pluralities: but all these causes are causes of reason and nature, therefore by the Lawes of reason and nature, Pluralities are forbidden: and therefore not to bee dispensed with, no more then theste or murder or blasphemie maye bee dispensed with. And if Antichrist thinke it Theft, Raine, Conetousnesse, Ambition, Pride, murder of Soules, for one man to haue manie Benefices without dispensation: if Antichrist account the hauing of many benefices without dispensation, to be a merie meane to maintaine a reauing, a gadding, and a dissolute Ministerie: to foster extortion and vnlawfull gain: what shall the seruantes of the Lord Christ, the sonne of the most highest, Whome hee hath commaunded to bee holie and perfect, as his heauenlie father is perfect, defend all these horrible finnes & impieties tollerable by dispensation? Can a dispensation from a Pope or an Archbishoppe make Theft no Theft? Raine no Raine? Conetousnesse and Ambition, no Conetousnesse and no ambition? I speake heerein to Christians, which ought to maintaine the Lawe of Christ against the lawe of Antichrist. For I knowe some of the Popes Chaplaines, grounding themselues vpon these rules of lawe, whereof mention hath beene made before, & giuing vnto the Pope *Merum imperium*, an absolute power on earth, will affirme, that the Pope can make *Nihil ex aliquo*, and *Aliquid ex nihilo*, Nothing of somewhat, and somewhat of nothing. Sinne to bee no sinne, and no sinne to bee sinne. These blasphemies they spue out, and these blasphemies they maintaine, that thinke they may bee theues and murderers, and extortioners by dispensation. And such are plurified men by their owne pluralitie Lawes, as shall further bee manifested. For as to the making of euerie generall and publike ordinaunce and constitution, it is necessarilie required, that the same tend, first to the aduancing of the honour, praise and glorie of God: secondlie, that it bee profitable and expedient for the peace and safetie of the weale publike: euen so, euerie superiour and Potentate, to whome authoritie by Lawe is giuen (in some cases) to graunt Priuiledges, ought in the same cases to obserue the like conditions and circumstances, to the end their saide Priuiledges may bee auailable and take effect, without the dishonouring of God and preiudice to their Countrie and people. For, though a dispensation be but a fiction in Lawe: yet is that fiction indeede, of as great force and efficacie in that fa-
ned

*Vid gloss.
Extra de
confes pre-
bend. c.
proposuit.
vers. si pra-
ius.
§. Apostol.
dispensat.
24. di-
stinct. c.
lefor.
Gloss. inc.
non est ex-
tra de voto
vers. au-
thoritate.*

BENEFICES VNLAWFVLL:

ned case, and worketh as great effect, as the truth of the Lawe
 it selfe in a case of truth: And by Lawe it is all one in effect,
 whether I inioye anie benefite by Priuiledge or by common
 right. And therefore as a Lawe publike, must bee equall, ho-
 nest, iust, possible, agreeable to the Countre, place and time, ne-
 cessarie, profitable, not written for anie priuate commoditie, but
 for the common profite of the people: so likewise must a Priui-
 ledge haue all these conditions and qualities. Otherwise as a ge-
 nerall and publike Lawe, looseth the name of a publike Lawe,
 vlesse it be such as hath the foresaide coherences: euen so a
 Priuiledge looseth the name of a priuate Lawe, vlesse it haue
 the like adiuncts.

*Cod. de coll.
 dec. l. libe-
 ros.*

*Distin. 4
 c. exst.*

The second fallacie wherein pluralitie men beguile them-
 selues, is as euident and palpable as the first. They reason
 thus: Churches were established and Parishes distinguished
 by man: therefore Churches and Parishes may bee vnitd by
 man: and if Churches maye bee vnitd by man, then one man
 may haue many Benefices. The antecedent of which Enshi-
 meme is sophisticall, because of the double and treble significa-
 tion of the worde Churches, and therefore the argument hurp-
 eth after the same manner, as the former did, attributing the
 establishing of Churches to man onelie: for if they shoulde
 meane by this worde (Churches) frames of Churches, fashio-
 ned of Timber, woode, Stone, Morter, and such like, then say
 they truelie, that Churches were builded and founded by man:
 as to saie, by Masons, Carpenters, Tylars, &c. But they will
 not haue the name of (Churches) in their Argument to be ta-
 ken in this sense. Their meaning (I am sure) is not so, they
 haue no such intent: for so might they rather burthen them-
 selues with the reparations of manie churches, then profit them-
 selues, with the reuenues of manie Churches: And by beeing
 Lordes of manie Steeples after that sort, they might gape long
 enough vpon them, befoze they gained ought by them. If they
 meane by this word (Churches) congregations & assemblies of
 people, then is their assertion absolutelie false, because the Lorde
 hath willed all his people to gather and assemble themselves to-
 gether, to the intent they should call vpon his name: And then
 in this sense their conclusion must needes faile also, because
 it is both impossible for all the people to bee assembled toge-
 ther into one place, and also impossible to heare one mannes
 voyce. But Churches againe taken and vnderstoode in this
 sense, as they make not for their purpose one waie: so are they
 not curraunt to themselves and their senses another waie.

They

DISPENSATIONS FOR MANY

They would teach and preach little enough, and bee wearie of well dooing soone enough, had they not respect to grease themselves, rather with the fat of the labour of the people, then diligently to governe and instruct the people: And therefore I gesse their meaning to be, that Churches in their former proposition, shoulde signifie the livings of Churches, and therefore their argument to be thus in effect. Livings of Churches are established and distinguished by man: therefore livings of Churches may bee taken awaie, or united by man, wherein they attribute still to man alone, that that in no wise appertaineth to man alone: for as Congregations are appointed by the Lord himselfe, so are pastours over Congregations, and livings for pastours likewise appointed by him: And therefore as congregations of the Lordes people cannot bee altogether dissolued by man alone, so ought not the livings appointed for the pastours of the same people to bee taken awaie by man alone, Doe yee not knowe (saith the Apostle) that they which minister about the holie things, eate of the things of the Temple: and they which waite at the Altar, are partakers with the Altar: So also hath the Lord ordained, that they which preach the Gospell, shoulde live of the Gospell. And therefore, in saying that livings of Churches and Parishes are distinguished by man, therefore they maye bee united by man, though in some sense the same may bee true, yet thereby it followeth not, that manie livings appointed by the Lord himselfe for manie pastours over manie Congregations, shoulde bee taken from manie and bee given to one. They might as well conclude, that whereas the Lord had commaunded the lande of Canaan to bee divided amongst the childzen of Israel by the hande of Moses: and whereas Moses had given vnto some one familie, a greater portion, and to some other familie a lesser portion: that therefore Ioshua, Moses successour, might haue taken both the greater and the lesser, and given it to one alone, or to haue taken all the portions and inheritances allotted vnto diuerse and sundrie of a familie, and to haue given them to one of one familie alone: or whereas Moses according to his commission, had distributed the land into twelue partes, according to the twelue principall and chiefe families: Ioshua might haue made but two or thre, or foure Captaines over all the whole twelue Tribes. As our auncesters in times past, bounding and limitting Parishes, haue enlarged some with wider borders, and straightned some with narrower passages then was meete and conuenient: So were it verie good and commendable for men of wisdom

Cor 1.9.13

Page

W

BENEFICES VNLAWFVLL.

in our daies, to yeeld to haue a better equalitie, then that some should haue all, and some neuer a whit: some two or three thousand pounds by the yeere, and some scarcelie 20. Nobles: so that the pastoz that now hath too little, might by some meanes haue sufficient: and that he that hath now too much, might haue a conuenient competencie. If Sempronius the tayloz should make Titius his garment too short wasted, and Scius his garment too long wasted, it followeth not therefore, that Caius the pilferer, to make himselfe a garment, should by stealth conuey both garments awaie. By the vnfolding of these fallacies, you may iudge, that if pluralitie men, to serue their turne indeed, could haue framed their argument skilfullie, they would then haue fashioned the same after this sort.

- 1 Whatsoever is established, and distinguished by man alone, the same may be taken awaie and vnited by man alone.
- 2 But Churches, that is to saie: Congregations of $\frac{1}{2}$ Lords people: pastours of these assemblies, and the liuings for the pastours of these assemblies, were established and distinguished by man alone:
- 3 Therefore Churches, pastours, and liuings for pastours, may be taken awaie and vnited by man alone.

Now because the Minor proposition of this Syllogisme is vtterlie false, therefore I conclude against pluralitie men thus

- 1 Whatsoever is established & distinguished by the Lord himselfe, the same may not be taken awaie or vnited by man:
- 2 But Churches, that is to saie, assemblies and societies of the Lords people, pastours of these assemblies, & liuings for the pastours of these assemblies, are established and distinguished by the Lord himselfe:
- 3 Therefore Churches, that is to saie, assemblies of people: pastours, & liuings for pastours, may not be taken away, or vnited by man.

The Minor proposition of which Syllogisme, to euery man, not minded to caull at these words, (Established and Distinguished) is infallible, and not to be denied: for though boundes and limits of certaine Parishes are bordered out by man: and that a certaine number of people, called to make one congregation, and to heare at one time, in one place, one certaine pastour, be at the rule and disposition of man: yet that these things should be thus done is the speciall commandement of the Lord. Moreouer, when as this thing shall be once thus perfozmed by man,
(according

DISPENSATIONS FOR MANY

(according to the Lordes commaundement) it shall be, & is lawfull for man againe, where the congregation is too great, to make the same lesse, and where it is to little, to make the same greater: & in this sense I graunt, that as it is lawfull for man to establish, and distinguish: so it is lawfull for man to take awaie and to vnite Churches and livinges. But because this is not the meaning of pluralities, for that they will haue one pastoz to be placed ouer manie Congregations, and manie Congregations to finde one pastoz: manie bodie to haue one head: and one head to haue manie bodie: manie flocks to haue one shepheard, and one shepheard to haue manie flocks: Therfore mine argument without anie cauill remaineth firme against them. And for these considerations, as befoze, so againe I denie the consequence made by plurified men, for the possessing of many benefices by one man. For, though by coulour of lawe. they pretend right vnto them: yet the lawe indeede yeeldeth them no such aduantage, because dispensations for manie benefices and Parish Churches, with cure of soules generallie graunted, are, and ought by lawe to be utterlie void and of none effect, as partlie hath bene proued, and more at large appeareth by that that followeth. *Dispensatio est iuris communis relaxatio, facta cum causa cognitione, ab eo qui ius habet dispensandi.* A dispensation is a relaxation or release of common right, graunted by him that hath power to dispence, hauing first taken knowledge of the cause thereof: that is, hauing considered, whether there bee iust cause to mooue him to graunt a priuiledge or dispensation against common right or no. By which definition it is euident, that *Dispensare, est diuersa pensare: nam omnia quae ad causam cognitionem pertinent, pensare debet, qui dispensari vult.* To Dispence, is to ponder diuerse things: for hee that will Dispence, ought to weigh and to consider all those things which pertaine to the knowledge of the cause. In which descriptions, three things are principallie requisite and necessarie. First, the person or iudge that hath authoritie to dispence. Secondlie, the causes for the which dispensations may be graunted: And lastlie, an examination or discussion of those causes: So that if anie dispensation or facultie whatsoeuer shall be graunted, either *A non Iudice*, by one that is no Iudge, either without a lawfull cause: or lastlie, without a speciall tryall and sitting of that same lawefull cause, befoze it passe: euerie such dispensation by a necessarie consequence, is meerelie void, because euerie such dispensation agreeth not to the definition of a dispensation, and therefore cannot bee the thing defined. Concerning the partie that hath power and authoritie to graunt dispensa-

Glos. 1. 9. 7
9. requiritur
ss.

Glos. ex-
trauagant
de prebend.

BENEFICES VNLAWFVLL.

dispensations, and to take knowledge of the lawfulnessse of the *& dignit.*
causes requisite to make dispensations good and auailable, the *c. execrabi-*
same in this Realme, is the Archbishoppe of *Canterburie*: and *in ver. vi-*
bypon his refusall then, such as her highnesse shall appoint to *11ma.*
that office, according to the forme of a Statute prouided in that *H. 8.*
behalfe. And therefore touching his person thus appointed
to bee Judge, I conclude from the generall to the speciall, as
befoze: that because the positine lawes of man against plurali-
ties, are all grounded either bypon the lawe of Nature, or by-
pon the lawe of God: And because, as the lawes of Nature
and the lawes of God are immutable, so shoulde the same po-
sitine lawes remaine stable and vchangeable: that therefore
the Archbishoppe of *Canterburie*, beeing a man, hath no moze
right to giue a dispensation against the positine lawes of man,
made against pluralities, then hee hath to giue a dispensation *glos. ex-*
against the lawe of Nature, or against the lawe of God. For *tra. de vot.*
saith the Glose in one place: No dispensation against the lawe *c. non est*
of Nature, or against the lawe of God is tollerable, no not by *ver. au-*
the Pope himselfe. As touching the causes wherebypon the *thoritate.*
sayde Archbishoppe, or other officers, shoulde, and ought bee *Extra. de*
moued, by remitting the rigour of common right, to graunt *conces.*
immunities and dispensations, they are two folde: One con- *preb. pro-*
sisteth in the dignitie and worthinesse of the persons, the other *posuit ver.*
in the waightinesse of certaine speciall causes. For in truth, *supra &*
either the defect of the qualitie of the person, or the want *c. cum ad*
of a iust cause in Lawe, dooth frustrate and make void eue- *monasteri-*
rie dispensation. For neither can a man qualified, and in all re- *um: ex de*
spectes capable of a Dispensation, inioye the benefite there- *statu mo-*
of, vnlesse hee may also inioye the same bypon a good ground, *nacho.*
and a iust cause warranted by Lawe: Neither can a iust cause
and good ground approued by Lawe, bee sufficient matter to
induce a Judge to graunt a Dispensation to him that is vn- *Vnto*
able and vnapt to receiue the same. A man well lettered, *vwhat mā-*
gularlie qualified, and endued with vertue and godlinesse, or of *sin-*
some noble house and parentage, is by Lawe a fit and meete man *ner of*
to inioye mo benefices by Dispensation then one: Neither is *dispensa-*
it a sufficient qualification for one destitute of learning to be- *tiōs ought*
come a Chaplaine onelie to some Noble man: For the Statute *to bee*
prouiding, that some Noble mennes Chaplaines shoulde be *graunted.*
made capable by dispensation to retayne mo Benefices,
dooth not thereby take awaie the qualities required to bee
in such personnes by common right, but addeth a newe
qualitie

DISPENSATIONS FOR MANY

Panor in c. ex parte. l. 3. de verb. signifi. fo. 189. nu. 3.
Extr. de prebend. c. si. de multa
Extr. de elec. c. in notis.

qualitie, requisite to be had of euerie one, and so maketh the lawe stronger and of moze efficacie against pluralities. *Statuta debent intelligi, quod aliquid addant iuri communi: Statutes ought so to be vnderstood, that they may adde somewhat to common right.* Circa sublimis & literatas personas, qua maioribus beneficijs sunt honoranda (cum ratio postulauerit) per sedem apostolicam poterit dispensari. Concerning men of Nobilitie and learning, who with greater benefices are to be honoured, the Apostolike see (if reason shal require) may dispence with such. And in another Chapter the same is confirmed.

M V L T A E N I M in hoc casu dispensationem inducere videbatur: literarum scientia, morum honestas, visa virtus, & fama persona multipliciter a quibusdam etiam ex fratribus nostris, qui eum in scholis cognouerant approbata. Manie things in this case seemed to leade to the graunting of a dispensation, his learning, his honest conuersation, his vpright life, and the good report of the person diuerllie commended, euen by some of our brethren vvhich knew him at schoole. These gifts and graces, these qualities, & these conditions, are incident, and appertaine by common right to these men, that by waie of dispensation, may possesse manie benefices, whosoever then is not commendable for his learning, for his honestie, for his sincere life, or not of some auncient and noble familie, the same man by lawe is vtterlie barred and secluded from this benefit. The second qualitie required to the validitie of euerie dispensation, is the waightinesse of some speciall cause, as appeareth in the Chapter before recited in these wordes, *Cum ratio postulauerit*, when reason requireth. And againe wee answered, saith Alexander the thirde, in a decretall Epistle witten to the Bishop of Exeter, that it belongeth to the iudgement of him that is President, that hee consider diligentlie the cause of commutation, and so accordingle to dispence. And by the Chapter, *Magna, Extra. de voto*, It is plaine and euident, that there must be some speciall cause knowen, for the which etuerie dispensation is to be graunted. For as I saide before, to the ende that euerie dispensation be good and auailable by Law, there is required necessarilie, both the abilitie of the person to whom, and the iustice of the cause for which the same ought to be giuen. For neither may an able man, without a iust cause, neither a iust cause without an able man, moue the Iudge in anie wise to dispence. And to tell you what these speciall causes are, in few wordes they are these, vrgent necessitie and euident vtilitie of the Church. *Propter vrgentem necessitatem, & euidentem vtilitatem ecclesia Capuana, quam in hac parte potius approbamus, volumus ipsum firmiter perdurare,*

BENEFICES VNLAWFVLL.

perdurare. For the bzgent necessitie and euident vtilitie of the Church of *Capua*, which on this behalfe wee rather haue respect vnto, our pleasure and will is, that hee continue. It is vnlawfull by common right for a Monk or laie man to bee admitted to the gouernment of anie Church with cure of soule: yet notwithstanding, if by reason of warre, famine, persecution, or other extraordinary cause, the office of pastozall teaching did cease, so a dispensation that the people had none to instruct them in the waie of saluation. on: now in this case it is lawfull for him that hath authoritie to dispence with a Monk or laie man, endued with learning, to the end hee might by instruction bring the people to knowledge. It is vnlawfull that children bozne of a Nunne, violentlie taken awaie and married, should be admitted to anie Ecclesiasticall orders. Notwithstanding, if the great profit or necessitie of the Church require, they may by dispensation bee admitted. Suppose there were a custome of long continuance and time out of minde in the Church of Paules, contrarie to the first foundation of the Church, that not onelie the Prebendaries daillie present at diuine seruice, but also others absenting themselves should receiue euerie one a like some daillie pension, either in money or some kinde of victuall: this custome by lawe is voide, because it is vnreasonable. And yet notwithstanding anie iust and necessarie infirmitie of the bodie of anie Prebendarie or euident vtilitie of the same Church, may bee a lawfull and sufficient inducement for the Ordinarie to dispence with the not restoring of that which was vnlawfullie taken, vnder pretence of the former custome. If by the first foundation of the Church of Paules, twelue Prebendaries were appointed to bee maintained by the reuenues of the Church, and the sayd reuenues were not sufficient for the maintenance of these twelue, the Bishoppe then in this case, if the necessitie and vtilitie of the Church so require, may annex certaine other Chappelles for the maintenance of the sayde Prebendaries. These examples doo sufficiently proue that euerie dispensation, priuiledge, or immunitie, ought to bee grounded vppon some iust and reasonable cause: and that the sayde iust and reasonable cause, ought euermore to bee the bzgent necessitie and euident profit and commoditie of the Church. And that the said bzgent necessitie and euident commoditie of the Church, ought euermore to bee vnderstoode, the well gouerning of the soules of the people. If therefore neither bzgent necessitie or euident vtilitie of the Church require that anie one should haue manie Benefices, yea rather, if it bee most profitable and necessarie for the Church, that one

DISPENSATIONS FOR MANY

man should haue but a liuing appointed for one man, and that by toyning benefice to benefice, and Church to Church, the Church indeede is meruailously wounded, grieved and molested: and that the soules of the people, are thereby not gouerned at all, but leste at randon to their owne direction, hauing no guide to conduct them: euerie one may euidentlie discern, dispensations in that behalfe, to be altogether intollerable, hauing no ground nor foundation of reason, equitie, or lawe, but onelie graunted for the priuate gaine and lucre of some couetous and vaine glorious persons. whereas it may be answered, that the statutes of y^e realme, licensing diuerse Ecclesiasticall persons, qualified either by degree of schoole, or by seruice vnto nobilitie, ought moze to be respected in this behalfe, then the reasons of the Canon law. Herevnto I aunswere, that for my part, I heartelie desire and praise vnto God, that these lawes might be respected, and that the law of England might rule an English man in this case. But alas, our lawes are bels without clappers: they are founded, but they sound not, they are bands, but they binde not. For though by the statutes of the realme certaine noble mens Chaplaines, & others graduated in the Vniuersities, be qualified, and made capable of dispensations, yet I denie the lawes of this Realme to approue anie manner of dispensations tollerable at all, for anie kinde of these qualified men, vnlesse the same be, first, in cases of necessitie for the peace of the common weale: Secondlie, in cases of conueniencie, for the honour of her highnesse person: and lastly, warranted by the holie Scriptures and lawes of God. For though the statute make some men, fit inē for the Archb, to worke vpon, & as it were anuiles for him to strike vpon, yet y^e same statute imposeth no necessitie, for the B. to worke without the word. But if it bee lawfull by the word, then by the lawe, he may if hee will. But if it be vnlawfull by the word, then hee may not though hee would. The lawe followeth. *Be it enacted that nesther the king, his heires and successours, Kings of this Realme, nor anie of their subiects of this Realme, nor of the Kings dominions, shall from thence forth sue to the see of Rome, or vnto anie person or persons, hauing or pretending anie authoritie by the same for licenses, dispensations, impositions, faculties, grauntes, rescriptes, delegacies, instrumentes, or other writings, of what kinde, name, &c for the which anie license, dispensation, composition, facultie, graunt, rescript, delegacie, instrument or other writing, heeretofore hath bene vsed and accustomed to bee had and obtained at the see of Rome, or by authoritie thereof, or of anie Prelate of this Realme, nor of anie manner of other licenses, dispensations, compositions, faculties, grauntes, rescriptes. &c.*

BENEFICES VNLAWFVLL:

other instruments or writings, that in cases of necessitie may lawfullie be graunted, without offending holie Scriptures and lawes of God: but that from hence forth euerie such lisenſe, &c. afore named & mentioned necessarie for your highnesſe, your heires or ſucceſſours, and your
 31. and their people and ſubiectſ, vpon the due examination of the cauſes and qualities of the perſons procuring ſuch diſpenſations, liſenſes, &c. ſhall be graunted, had & obtained from time to time within this your Realme, and other your dominions, and not elſe where in manner and forme following, and no otherwiſe: that is to ſaie, the Archbiſhop of Canterburie for the time being, and his ſucceſſours ſhall haue power & authoritie from time to time by their diſcretions, to giue, graunt, and diſpoſe by an instrument, vnder the ſeale of the ſaid Archbiſhoppe, vnto your Maieſtie, and to your heires and ſucceſſours, Kinges of this Realme, as well all manner ſuch liſenſes, diſpenſations, faculties, graunts, reſcripts, delegacies, instruments, and all other writings for cauſes not being contrarie or repugnant to the holy Scriptures and lawes of God, as heretofore hath bene accuſtomed to be had and obtained by your Highneſſe, or anie your moſt noble progenitors, or anie of yours or their ſubiectſ, at the ſea of Rome, or anie perſon or perſons by authoritie of the ſame, and all other liſenſes, diſpenſations, faculties, &c. in and for, and vpon all ſuch cauſes and matters, as ſhall be conuenient and necessarie to be had for the honour and ſuretie of your Highneſſe, your heires and ſucceſſours, and the wealth and profit of this your Realme: ſo that the ſaid Archbiſhop or anie his ſucceſſours, in no manner wiſe ſhall graunt anie diſpenſation, liſenſe, reſcript, or anie other writing afore rehearſed, for anie cauſe or matter repugnant to the law of almighty God. This act is renewed 1. Elizab. Provided alwayes, that this act, nor anie thing or things therein contained, ſhall be hereafter interpreted or expounded, that your grace, your nobles and ſubiectſ intend by the ſame to decline or varie from the congregation of Chriſt his Church in anie thing concerning the verie articles of the catholique faith of Chriſtendome, or in anie other thinges declared by holie Scripture, and the worde of God, necessarie for your and their ſaluations, but onelie to make an ordinance by policie, necessarie & conuenient to reſſeſſe vice, and for good conſeruatiſon of this Realme in peace, vnitie, and tranquillitie from rauine and ſpoile. In
 32. which act is ſet forth vnto vs, what great care and circumſpection, our aunceſſours in the twi-light of the Goſpell, had for the abolishing of corruptions, and the eſtabliſhing of a ſincere gouernment, both in the Church and common weale: and how diligentlie and faithfullie they provided, that no manner of diſpenſations, liſenſes or immunities, ſhould be had

DISPENSATIONS FOR MANY

or obtained, but in cases of necessitie, in cases not contrarie or repugnant to the lawes of God: in cases wherein the wealth, profit, peace, and conseruation of the Realme requireth: in cases conuenient for the honour and safetie of the kings person: with a due consideration alwaies of the causes and qualities for the which, and of the persons to whom anie license or immunitie shoulde be graunted. And therefore out of this statute first I conclude thus against plurified men.

- 1 Whatsoever cause or matter is repugnant to the lawe of God, the Archbishop may not dispence with the same:
- 2 But the matter of hauing many benefices, or beeing Non residents, is repugnant to the lawes of God:
- 3 Therefore the Archb, may not dispence with the same. Again.

- 1 Whatsoever is not necessarie for the wealth, peace, profit, & conseruation of the realme, & same by this statute is forbidden:
- 2 But & one man should inioy by waite of dispensation from & Archb. liuings appointed for many men, is not necessarie for the wealth, peace, profit, & conseruation of & Realme.
- 3 Therefore the same is forbidden by this statute. Lastly.

- 1 Whatsoever is not conuenient for the honour and safetie of her highnesse person, & same by this statute is forbidden:
- 2 But it is not conuenient for & honour & safetie of her highnes persō, to haue the Archb. dispence for many benefices.
- 3 Therefore by this statute the Archbishop is forbidden to dispence, &c.

THE Minor proposition of the first Syllogisme hath bene alreadye sufficientlie prooued by many infallible conclusions of Lawe, and vndoubted truths of the worde of God, and therefore it is needlesse to make anie repetition thereof. Onely I would haue the reader diligently to marke the words of the Statute, forbidding all manner of Dispensations, in anie matter or cause repugnant to the worde of God. For though the aduersarie canil, that wee finde not in the Scriptures these tearmes: viz. Licenses, Collerations, Dispensations, &c. precise-ly specified in anie commandement, prohibitorie in the Scriptures: yet in as much as the matter or cause of dispensations for manie benefices is there generallie forbidden: as ambition, pride, conetous

conetousnesse, perill of soules, &c. Therefore it followeth, that by this statute Dispensations in this case are absolutelie inhibited. The *Minors* proposition of the second *Sillogisme* may be confirmed by three euident reasons. First from the euent, which by our owne common and dailie experience, wee too too well knowe to be true. For by the same we see a few wealthy and rich Prelates, in pride and tollitie to be mainteined, and a great number of needie *Stipendarie Curates*, and poore *Ministers* to be utterly destitute of meete and conuenient allowances: so that sometimes after their decease, their distressed wiues and children are forced either to be releued by the seuerall Parishes of their abodes, to the impouerishing of the same Parishes, or else constrained to beg from place to place, and so be chastised as rogues: or pilfer and steale, and so bee punished as felons. Secondlie, by a comparison drawn from the other Statutes of the Realme, prouiding that one rich and mightie man should not exercise manie seuerall mysteries, trades, and faculties, and so rob the poorer sort from the ordinarie meanes, whereby they might liue well and honestlie in the common wealth. The third reason is taken from an adiunct or common accident to euerie common weale, rightlie gouerned: that is, that the last wils and Testaments of all and singular testatores be duly executed: especiallie such, as wherby the honour of God is promoted, the Church and common weale manifestlie regarded: but vnto the performance of the last wils and Testaments of manie patrons, endowing manie Churches with large and ample possessions, to the intent conuenient lining might be alwaies prouided for pastours to bee resistant, and to feede their posteritie with the foode of life, the worde of God, there can be nothing moze prejudiciall, or moze derogatorie, then that these seuerall patrimonies and inheritances, appointed by seuerall patrons, for seuerall pastours, to such seuerall and good uses, should by the dispensation of one man, bee transformed and giuen to another use, contrarie to the testator his intent and purpose. And therefore I confirme my *Minors* proposition by these three conclusions.

1. Whatsoever is an occasion that poore and needie Ministers, their wiues and children, doe want a competent and conuenient maintenance, the same is not necessarie, for the profit, peace, wealth, and conseruation of the common weale:
2. But that one man should by dispensation inioyn many benefices, is an occasion that poore & needie Ministers,

DISPENSATIONS FOR MANY

their wiues and children doe want a competent & con-
uenient maintainance :

- 3 Therefore that one man should by dispensation inioy ma-
nie benefices, is not necessarie, for the profit, peace,
wealth, and conseruation of the common weale.

- 1 Whatsoeuer is an occasion & one man should inioy the offices
and liuings of many men, the same is not necessarie for
the peace, profit, wealth, & conseruation of the common
weale.

- 2 But that one man should by dispensation inioy many be-
nifices, is an occasion that one man should inioy the of-
fices and liuings of manie men :

- 3 Therefore that one man should inioy by dispensation ma-
nie benefices, is not necessarie for the peace, profite,
wealth, and conseruation of the common wealth.

- 1 Whatsoeuer is pzeiudiciall and derogatorie to the last wilis
& testaments of testatozs, disposing their patrimonie to
lawfull and holie bles, the same is not necessarie for the
peace, profit, wealth and conseruation of the Realme.

- 2 But that one man by dispensation shoulde inioye manie
benefices, is pzeiudiciall and derogatorie to such last wilis
and Testaments.

- 3 Therefore that one man by dispensation should inioye ma-
nie benefices, is not necessarie for the peace, profite,
wealth and conseruation of the Realme.

It is incō-
uenient
for the
honor &
safetie of
her high-
nesse per-
son, for
ſ Archb.
to dispēce

CONCERNING the validitie of the Minor proposition of my
third syllogisme, drawn from the conueniencie of her high-
nesse honour (namelic, that it is not conuenient for the honour &
suretie of her Highnesse person, to leaue anie manner of authori-
tie, for the Archbishop to dispence) none may well doubt thereof,
but onelic such as respect moze the pompe and glorie of an Arch-
bishop, then the dignitie and preheminence of a christian king.
For in good sooth, this statute made principallie to abolish all
vsurped power, challenged by a forrain and Romish Pope, ouer
the king & his subiects, & yet to authorize a domesticall & English
Archb. in his roome, containeth in it such a contrarietie, & such an
absurditie, as it is wonder how either anie Archb. durst challenge
& execution thereof, or else how her highnesse most noble father, &
brother, & her Highnesse owne person, could endure the same so
long vncancelled and vnrepealed, especiallie the same being most
pzeius

BENEFICES VNLAWFULL.

preiudiciall to their regall crownes and dignities. For, first by the vertue of this statute, it is enioyned the Archbishop and his successours in no manner wise, to graunt any dispensation, licence, rescript, or any other writing for any cause or matter, repugnant to the law of almighty God. Secondly, it is permitted vnto the sayde Archbishop, and his successours, by their discretions, to graunt vnto the kinges Maiestie, and to his heires and successours, Kinges of this Realme, all manner such licenses, &c. as heretofore haue bene accustomed to be had and obtained by his Highnesse, or any his noble progenitors, or any his subiectes at the sea of Rome. which two clauses, without dishonour to the Maiestie of God, or preiudice to hir highnesse prerogative, cannot possible establish a sound and perfect lawe. For, first in as much as the Popes person was neuer duely qualified to be a lawfull dispenser, or any lawfull Magistrate in the Church of God, it is manifest that euery dispensation granted at that time at the sea of Rome, was directly against the lawe of GOD, as granted by one that was no member of the Church of God. Againe: In as much as the truth of the Gospell warraunteth vs, that symony, vsury, Periury, Adultery, Incest, Nonresidence, many benefices, Marriages against the Leuiticall Law, obseruations of superstitious dayes and tymes, not eating of flesh in Lent, and such lyke, are against the Law of God: it is euident that dispensations graunted at that time, for these and such like thinges, at the Sea of Rome, were graunted in causes and matters repugnant to the law of God, and so by the former branch of this statute being precisely disallowed, cannot by the second branch of the same bee generally approued. For how can one and the selfe same lawe forbid and command, thinges so contrary and repugnant in themselves? Or how can the Archbishop safely ground his iurisdiction vpon a law so contrary and repugnant vnto it selfe? If the Archbishop shall thinke that these two branches may be reconciled, and that the meaning of the former may and ought simply to be vnderstood, as the words them selues import: and that the second branch, may and ought to be vnderstood, to bound and limite such an authoritie to him selfe, as whereby he might graunt such licenses as were had and obtained at that time, at the sea of Rome, for matters not contrary or repugnant to the lawe of God: yet neither by this interpretation, is the Archbishop truly intitled vnto any authority, thereby to dispence for symony, nonresidence, many benefices, marriages in Lent, &c. in as much, as such manner of licenses, obtained at y time at the sea of Rome, were obtained for matters repugnant

DISPENSATIONS FOR MANY

vnto the law of God, and contrary to the truth of the doctrine
 of the Gospel: and so by this statute flatly forbidden. which
 things our aunccestors, not thoroughly foreseeing, neither duely
 examining for what manner of causes or matters licenses were at
 that time obtained at the sea of *Rome*: but onely in a generalitie
 inhibiting things repugnant vnto the law of God, & neuer parti-
 cularly describing what those things were: but leauing the same
 wholly to the iudgement and discretion of one man, the Archbi-
 shop alone, haue fallen into two palpable absurdities: the one, that
 one man alone, hath from time to time authoritie by his discreti-
 on, to determine what causes are repugnāt to the holy scriptures
 and lawes of God: what causes and matters are conuenient for
 the honour and safetie of the King of *England*, and what are ne-
 cessary to be had for the wealth and profite of the Realme, three
 things of such waight and importance, as the whole bodie of the
 realme, at that time, was scarce able to conceine, much lesse shall
 euer any one Archbishop be able to practize. The other absurdi-
 tie is this, viz. that by this statute, soueraignie is giuen to the
 Archbishop and his successors, to dispence with the king, and his
 successors, kinges and Queenes of *England*. The wordes of the
 statute are plaine & euident. But what reason is there for kinges
 and Queenes of *Englande*, to become wardes and pupils vnto an
 Archbishoppe of *England*? Or how agreeth it with the word of
 God, that a Christian King shoulde in any sort bee in subiection
 vnto his owne vassall? Or what Christian subiect dareth at-
 tempt to offer vnto his Christian soueraigne a tolleration? For,
 in case the matter of the sayde tolleration be pretended to con-
 cerne the conscience, then if the matter be free and lawfull by the
 law of God, a Christian king may as well and as freely vse the
 libertie of his conscience, with out licence from his subiect,
 as his subiect maye vse his freedome, without dispensati-
 on from the king. If it be contrary to the lawe of God, then
 may neither a Christian king, neither a Christian subiect be dis-
 penced with. For what man can dispence with the lawe of God?
 And in case the matter of dispensation concerne any thing ap-
 pertaining vnto this lyfe, how then shoulde the king receiue a dis-
 pensation from the Archbishop, without impeaching his kingly
 dignitie and prerogative? For either he must be dispenced with,
 for breach of the positive law of this lande, and haue the payne of
 law, remitted him by the Archbishop, which were to set the Arch-
 bishoppes keyes aboue the kinges armes: Or els he must pur-
 chase a dispensatiō, that he may break his law, which ver against
 his honor & safety. For saith the Emperour. *Digna vox est inestitate*

regnantis,

RENEFICES VNLAWFVLL.

regnantis legibus alligatum se principem profiteri. It is a word wor- *e. De le. &*
 thie the maiestie of a ruler, to acknowledge himselfe as chiefe ti- *constit.*
 ed vnto the lawes. *princ. l. dig.*

Whoeuer, this case betweene the king and the Archbishop, is *na.*
 farre different from the case betweene the king and his Iustices
 at lawe, determining matters according to the common lawes &
 customes of the Realme, betweene the king & his subiects. For
 they remaine still the kings vnderlings, and in deed giue but the
 kings iudgement: they iudge not the kings person, neither con-
 methanie thing touching his person befoze them. But dispensa-
 tions from the Archbishop to the king, concerne the kings owne
 person. The king in his roiall person, or by his proctor, must
 appeare in the Archbishops Consistorie: he must alleage befoze
 the Archbishop sufficient matter, wherevpon the Archbishoppe
 (but a subiect) may be moued to dispence with the king, his soue-
 raigne: and finally, the kings wisdomme must be subiected to the
 Archbishops discretion, And therefore to confirme the 29th
 proposition of my third syllogisme, I conclude.

- 1 Whatsoever is dishonourable and dangerous for her high-
 nesse person, the same cannot be conuenient for her ho-
 nour and safetie:
- 2 But it is dishonourable and dangerous, to haue the Arch-
 bishop to dispence with her highnesse:
- 3 Therefore the same is not conuenient, &c.

40. **W**hich reason also, may be as well applyed to disproue the
 the vnlawfullnesse of the Archbishops dispensations,
 graunted vnto anie of her highnesse subiects, as vnto her
 highnesse owne person, in as much as her kinglie prerogatiue &
 supreme gouernment in matters lawfull by the holie Scrip-
 tures, is thereby impeached, the Archbishops iurisdiction one-
 lie aduanced, and the suretie of her royall person and peace of the
 common weale ill prouided for. Againe, sithence euerie one of
 sound iudgement vnderstandeth the honour and safetie of her
 highnesse person, onely and wholly to consist in the protection and
 safeguard of our most mightie and gracious God: & that nothing
 can be so honourable and safe for her highnesse, as humble and
 reuerentlie to attend, and to submit her selfe to the scepter of his
 word: the execution of this statute by the Archbishop cannot be
 but most inconuenient, and perillous for her highnesse person,
 in as much as partly thzough a corrupt construction, partlie by
 a sinister iudgement, not rightly discerning what things are re-
 pugnant

DISPENSATIONS FOR MANY

Pouertie
of the
person no
cause for
a dispen-
sation.
*Rebuff. de
dispens. ad
plus. benefi.*

32. q. 5. c.
horrendus.

70 di-
stinct. san-
ctorum.

21. q. 1. c.
primo.

glos extr. a.

de rescrip.

c. si propo-

nente. ver.

minus.

ff. 91. di-

stinct. quis

autem.

pugnant to the holy Scriptures, which causeth the name of God to be euill spoken of, and is a dishonour vnto God, and therefore no honour nor safetie vnto her highnesse person. And therefore her highnesse is humblie to be intreated, to take the entire domination, and whole soueraignie due vnto her by the worde of God, into her owne handes, and not anie longer to suffer such a blemish to remaine in her gouernment. Had her highnesse most noble Father vnderstood, his kinglie person to haue vnder-gone the Censozship of his subiect, no doubt he would as couragiously haue fought against an Archbishop, as hee did against an Abbot. As concerning the pouertie of certaine persons, pretended & alleaged in defence of dispensations for manie benefices, that because the reuenues and profites of one benefice is now a daies not a competent and sufficient mainteinance for a Minister, his wife and familie: that therefore, in respect of such pouertie, they are necessarie and to bee bozne withall. I answer heerein first with Rebuffus the Lawyer, *¶ Licet quis sit pauper, &c.* Though one bee poore, and suppose two benefices to bee verie necessarie and profitable for him, yet for this cause the Pope may not dispence. But if it bee necessarie or profitable for the Church to haue a teacher, to instruct, maintaine, and defend the same, then shall a dispensation bee lawfull. Secondlie, that whosoeuer hath taken vpon him a charge with a poore liuing and stipend belonging to the same, ought by lawe to content himselfe therewith, and not in respect of anie pouertie, to seeke to haue many lininges, thereby to better his estate, or augment his liuing: For the Lawe in truth is as followeth. *Qui modicum recepit ben- nescium, &c.* Hee that hath receiued a small Benefice, hath prejudiced himselfe, therfore let him seeke his liuing by his owne craft, because whatsoeuer hath once pleased him, ought not anie more to displease him. And let euerie one walke in that vocation wherevnto hee is called, and let him doe according to the example of the Apostle, saying: These handes haue ministered vnto mee all thinges that were wanting. And let him that is forbidden to get his liuing by filthie lucre and vnhonest merchandise, haue a stipend of the oblations and offeringes of the Church: but in case the Church bee not sufficient, let him after the example of the Apostle, who liued by the worke of his handes, get by his owne industrie or husbandrie those thinges that are necessarie. Out of these lawes against dispensations graunted vnto priuate persons in respect of priuate necessitie, I conclude thus:

BENEFICES VNLAWFVLL.

- 1 If private necessitie and pouertie were a sufficient cause, to inioy a dispensation for many benefices, then should private necessitie haue bene warranted by Lawe heerevnto:
- 2 But private necessitie or pouertie is not warranted by Lawe, to bee anie sufficient cause for a dispensation:
- 3 Therefore the necessitie or pouertie of a private person is not a sufficient cause for a dispensation.

142. **T**HE first proposition is grounded vpon the verie nature and essence of a dispensation: for the same being, as is sayde befoze, of the nature of a Priviledge, cannot otherwise bee graunted, then vpon a iust cause ratified by Lawe. The second proposition, being a generall proposition negative of the Lawe, cannot better bee manifested, then by a speciall repetition of the things permitted by Lawe, according to this rule. *Quod in quibusdam permittitur, in ceteris prohibetur*: That which is permitted in some certaine things, the same in other things is forbidden. And therefore the Lawe, allowing either urgent necessitie and evident vtilitie of the Church, or some excellent qualities of the minde, or discent from some auncient parentage, to bee onelie causes of dispensation, excludeth all other causes whatsoeuer. And as touching necessitie and pouertie of private persons, the Lawe absolutelie appointeth other meanes to releene the same, then by waie of dispensation: Neither can it bee found in the whole bodie of Lawe, that pouertie alone is anie sufficient cause to procure a dispensation for manie Benefices. For the Lawe accounteth him alwaies to haue a competentencie and sufficiencie, which hath *Vitum & vestitum*, meate drinke, and apparell, which is prooued thus: *Iuxta sanctum Apostolum, sic dicentem, habentes vitum & vestitum, hijs contenti sumus*: according to the saying of the Apostle, hauing foode and apparell, let vs content our selues with that. And heere wee learne both what hee that hath taken vnto himselife a charge, hauing but a small stipend annexed therevnto, ought to doe, in case it bee not sufficient: that is, that he ought to labour and trauaile with his owne handes, in some honest handie craft: and also what by lawe is reputed and taken to bee a competent and sufficient maintenance, euen foode and apparell. Whosoever, if a man willinglie & without compulsion enter into a charge, knowing befoze hand the stipend due vnto him for his trauaile to bee

143. small, hee may not lawfullie afterwarde complaine, but

12. q. 1. c.
Episcopus
ver. 9.
2. c. Episcopus.

DISPENSATIONS FOR MANY

it is wholie to be imputed to his owne negligence and follie, that he was no more circumspect better to prouide for himselfe at the first. If a man knowing a woman to haue lead a loose and dissolute life, take her to his wife, hee cannot for her former misdeemeanour giue her afterwarde a Bill of Deuorcement. *Quod semel approbavi, iterum reprobare non possum*: That which once I haue approued and allowed, I cannot afterwarde disproue and disallowe. Neither in truth, for ought that euer I perceiued, by the want of anie pluralitie man, if he rightly examine his owne conscience, can he pretend anie necessitie and want of liuing for himselfe, to be anie iust cause of his foule disorder heerein. May Caietane Cardinall of *Brygit*, whose annuall reuenues by his Cardinallship amount to the summe of two hundred pounds: may the same Cardinall, whose annuall profits of his Prebend in another Church amount to the summe of two hundred markes: May the same Cardinall, whose annuall reuenues of his Archdeaconrie in another Church amount to the summe of forty pounds: May the same Cardinall, whose annuall reuenues of his owne and his wiues patrimonie, amount to the summe of fiftie pounds, complaine iustlie that he standeth in neede of sufficient liuing to maintaine himselfe, his wife, and two or three children, and thereupon purchase to himselfe a license to retaine a benefice, from the which he receiueth yeerlie one hundred markes? May a Cardinall, I saie, thus furnished with so many Ecclesiasticall dignities, affirme safelie with a good conscience, that he wanteth and standeth in neede of a conuenient liuing? May, may not the Lordes people rather crie out against this intollerable ambition, raine and spoile? Yea, maye not the common weale, yea, doth it not feele to her ruine, the miserable pouertie and penurie of his stipendarie Curate, vpon whom he thinketh to haue bestowed a large and bountifull reward for his seruice in the ministerie, towards the maintenance of him, his wife, and familie, when as his farmer shal pay him by yere ten or twelue pounds at the vtmost: Is this tollerable by lawe? No, no, the pretence of pouertie that this man and his fellowe Cardinall, hauing Church vpon Church, and a personage vpon his pronostshippe, doo make to be a cloake for their worldlinesse, can neuer shroude it selfe so couertlie, but their iniustice by lawe may soone bee cried and discovered. For this clause of lawe, *Sed etiam habentes plures ecclesias, &c.* But they that haue manie Churches, one not depending on the other, it is lawfull for thee, notwithstanding anie appeale to the contrarie, to constraine them at their choice, to leaue one of them, vlesse they shall bee so poore, that they

BENEFICES VNLAWFVLL.

they cannot conuenientlie haue their proper and peculiar Priests: I saie this clause (*Nisi ita fuerint tenues*) cannot excuse master Cardinall or master Prouost, to retaine his Abbey or Frierie, and by dispensation a benefice or two besides. For that, as I said befoze, this Priuiledge hath no place, when as a man voluntarily hath taken vpon him a small charge, and so contented himselfe with a small portion at the first: but onelie it hath then place, and then taketh effect, when as *Ex post facto*, by some after deede his Church is impouerished. Moreover, those Churches are counted *Tenues in substantia*, Churches small in reuenue, which haue not a flocke of ten persons, families or householdes, able to contribute to the maintenance of a pastoz, as appeareth by the Canon following.

145. *HOC NECESSARIUM, &c.* This vve haue thought necessary to be ordained, that many Churches bee not at all committed to one elder, because hee alone can neither performe his office in them al, neither yet imploie anie necessarie care for the administration of the goods thereof: For this consideration therefore vve commaund that euerie Church vvhich hath had ten households, haue also a pastoz ouer the same: & if anie haue had fewer then ten, let then that Church bee ioyned to some other Churches. By which constitution our pluralists, if they were not wilfullie blinde, might easily vnderstand that the lawe dooth not permit one man, by reason of pouertie to haue many Churches, that are able of themselves to maintaine many pastours: but that many pooze Churches, vnable to maintaine many pastours, shoulde bee consolidated and vnited to one, and being so ioyned together and made one, then to haue one pastour ouer them all, that might haue of them all a competent salarie for his sustentance. For saith Rebuff. *Papa in dispensatione, maxime respicere debet utilitatem Ecclesie, non persona: sed hodie ventum est, ut persona utilitas consideratur, potius quam Ecclesia, & potius dispensatur cum diuitie, qui totam vorabit ecclesiam, quam cum alio bono, qui eam tuere possit.* The Pope in a dispensation ought chieslie to respect the profit of the Church, not of the partie: but it cometh to passe now a daies, that the profit of the person is rather considered, then of the Church: and a dispensation is rather giuen to a rich man, which will deuour the whole Church, then to another good man which might maintaine the Church. If therefore it might stand with the good pleasure of her highnesse godlie Comissioners, in causes ecclesiasticall within their seuerall charges, not onelie to examine the lawes precedent, but also to put in execution & lawes following, they should by this their industrie, speedily

DISPENSATIONS FOR MANY

it is wholie to be imputed to his owne negligence and follie, that he was no more circumspect better to prouide for himselfe at the first. If a man knowing a woman to haue lead a loose and dissolute life, take her to his wife, hee cannot for her former misdemeanour giue her afterwarde a Bill of Deuorcement. *Quod semel approbasi, iterum reprobare non possum*: That which once I haue approued and allowed, I cannot afterwarde disproue and disallowe. Neither in truth, for ought that euer I perceiued, by the want of anie pluralitie man, if he rightly examine his owne conscience, can he pretend anie necessitie and want of liuing for himselfe, to be anie iust cause of his foule disorder heerein. May Caietane Cardinall of *Brygit*, whose annuall reuenues by his Cardinalship amount to the summe of two hundred pounds: may the same Cardinall, whose annuall profits of his Prebend in another Church amount to the summe of two hundred markes: May the same Cardinall, whose annuall reuenues of his Archdeaconrie in another Church amount to the summe of fortie pounds: May the same Cardinall, whose annuall reuenues of his owne and his wiues patrimonie, amount to the summe of fiftie pounds, complaine iustlie that he standeth in neede of sufficient liuing to maintaine himselfe, his wife, and two or thre children, and thereupon purchase to himselfe a license to retaine a benefice, from the which he receiueth yeerelie one hundred markes? May a Cardinall, I saie, thus furnished with so many Ecclesiasticall dignities, affirme safelie with a good conscience, that he wanteth and standeth in neede of a conuenient liuing? May, may not the Lordes people rather crie out against this intollerable ambition, rapine and spoile: yea, maye not the common weale, yea, doth it not feele to her ruine, the miserable pouertie and penurie of his stipendarie Curate, vpon whom he thinketh to haue bestowed a large and bountifull reward for his seruice in the ministerie, towards the maintenance of him, his wife, and familie, when as his farmer shal pay him by yere ten or twelue pounds at the vtmost: Is this tollerable by lawe? No, no, the pretence of pouertie that this man and his fellowe Cardinall, hauing Church vpon Church, and a personage vpon his pronostshippe, doo make to be a cloake for their worldlinesse, can neuer shrowde it selfe so couertlie, but their iniustice by lawe may soone bee discried and discovered. For this clause of lawe, *Sed etiam habentes plures ecclesias*, &c. But they that haue manie Churches, one not depending on the other, it is lawfull for thee, notwithstanding anie appeale to the contrarie, to constraîne them at their choice, to leaue one of them, vnlesse they shall bee so poore, that they

BENEFICES VNLAWFVLL.

they cannot conuenientlie haue their proper and peculiar Priests: I saie this clause (*Nisi ita fuerint tenues*) cannot excuse master Cardinall or master Prouost, to retaine his Abbey or Frierie, and by dispensation a benefice or two besides. For that, as I said before, this Priuiledge hath no place, when as a man voluntarily hath taken vpon him a small charge, and so contented himselfe with a small portion at the first: but onelie it hath then place, and then taketh effect, when as *Ex post facto*, by some after deede his Church is imposterished. Moreover, those Churches are counted *Tenues in substantia*, Churches small in reuenue, which haue not a flocke of ten persons, families or householdes, able to contribute to the maintenance of a pastor, as appeareth by the Canon following.

145. *HOC NECESSARIUM, &c.* This we haue thought necessary to be ordained, that many Churches bee not at all committed to one elder, because hee alone can neither performe his office in them al, neither yet imploye anie necessarie care for the administration of the goods thereof: For this consideration therefore we commaund that euerie Church which hath had ten households, haue also a pastor ouer the same: & if anie haue had fewer then ten, let then that Church bee ioyned to some other Churches. By which constitution our pluralists, if they were not wilfullie blinde, might easily vnderstand that the lawe dooth not permit one man, by reason of pouertie to haue many Churches, that are able of themselves to maintaine many pastours: but that many poore Churches, vnable to maintaine many pastours, shoulde bee consolidated and vnited to one, and being so ioyned together and made one, then to haue one pastour ouer them all, that might haue of them all a competent salarie for his sustentance. For saith Rebuff. *Papa in dispensatione, maxime respicere debet vtilitatem Ecclesie, non persona: sed hodie ventum est, vt persona vtilitas consideratur, potius quam Ecclesia, & potius dispensatur cum diuite, qui totam vorabit ecclesiam, quam cum alio bono, qui eam tueri possit.* The Pope in a dispensation ought chieslie to respect the profit of the Church, not of the partie: but it cometh to passe now a daies, that the profit of the person is rather considered, then of the Church: and a dispensation is rather giuen to a rich man, which will deuour the whole Church, then to another good man which might maintaine the Church. If therefore it might stand with the good pleasure of her highnesse godlie Commissioners, in causes ecclesiasticall within their seuerall charges, not onelie to examine the lawes precedent, but also to put in execution & lawes following, they should by this their industrie, speedily

DISPENSATIONS FOR MANY

speedilie & plentifully provide, many good competent livinges, for many good men, to become good pastors in the same: I meane not Ecclesiastical men, placed Ecclesiastical Commissioners, for they for the most parte are the greatest offenders in this behalfe: but I meane those of hir most honourable Councell, of hir Nobilitie, and of hir worshipfull subiectes, hauing graunted vnto them from hir highnesse, as great authoritie as any of the Ecclesiastical state haue. An Ecclesiastical Commissioner is no moze exempted from controulement of his colleagues and associates, then is a Senatour, from the order of the Senate, or a Counsaillour from the directions of the body of the Counsaile, or a Bishop from the Censozship of a lawful Synode. If therefore the Nobler, sounder, and better part of the ecclesiastical Commissioners, did examine not onely such purified men, as are no Commissioners, but such purified men also as are ioyned in Commission, whether by vertue of any facultie, license, or dispensation, they, or any of them, haue enioyed mo Benefices with cure of soules then one alone, aboue the space of seuen yeares, then should the sayde Commissioners finde the same Benefices so possessed, to be meere ly boide, as though the incumbent were dead. Because euery dispensation graunted for moze then seuen yeares, by lawe is a voyde Dispensation, as appeareth by that that followeth.

*Lib. 6. de
elect. licet
canon § is
autem.*

*Glos. verb.
ad repus.*

IS ETIAM, &c. The partie also which is taken to such a Regiment, to the end hee may more diligentlie care for the flocke committed vnto his charge, let him bee personallie resident in the Church, whereof hee is person. And as touching his residence, the ordinarie for a time may dispence if anie reasonable cause so require. He saith well (saith the Glosse) that the ordinarie may dispence for a time, because the Pope himselfe cannot giue perpetuall indulgences for residence, & such as were giuen befoze by Popes, he hath reuoked, as appeareth by the constitution following.

*Lib. 6. de.
rescr. c. vlt.*

QVIA PER AMBITIOSVM, &c. Because of the ambitious importunitie of suitors, as well vvee as some of our predecessors, Bishops of Rome, haue giuen vnto manie, perpetuall indulgences, for the receiuing of the fruites of their benefices (dailie distributions excepted) whether they vvere at studie, or whether they vvere resident in either of their benefices, or had their abode in the Court at Rome, or in anie other certaine place, or vvhersoeuer else, by meanes vvhreeof insolences of gadding doo spring foorth, and a matter of dissolutenesse is prepared, the seruice or vvorship of God, (vvhich vvee desire should be increased) is diminished, and the office of Ministerie, in

BENEFICES VNLAWFVLL.

in respect vvhwhereof an Ecclesiasticall benefice is due, for the most part is omitted: vvee vvvilling to amend things passed, and as much as lieth in vs to prouide against things to come, doo vtterlie reuoke all such, and the like personall and not reall indulgences: and that vvhich vve suffer not lauyfull in our selues, vve forevarne the same vnto our successours. By which Canons it is plaine, that euerie dispensation should haue a certaine time limited, beyond the which, it ought not to be extended, for by this perpetuall indulgencie, is vnderstood an indulgencie for tearme of life. An indulgencie therfore for tearme of life may not bee graunted, for then it is perpetual, and so contrarie to the meaning of this last constitution. wherfore the time of necessitie must be limited, which time the Lawe following hath limited and appointed to be seuen yeares onelie.

PRESENTI CONSTITUTIONE sancimus, vt Episcopi, Lib. 6. de copi, eorumq; superiores cum hijs qui huiusmodi subiectas sibi Ecclesiis obtinent, vel obtinuerint in futurum, dispensare possint liberè quod ex eo.

vsque ad septennium literarum, &c. By this present decree vve ordaine, that the Bishops and their superiours may freelie dispence vwith those that either novv doo obtaine, or heereafter shall obtaine vnder thee, such Churches, that they continuing at studie for learning, bee not compelled to be promoted vnto orders, vntill the end of seauen yeares. And though this lawe seeme speciallie to haue respect vnto such, as for studies sake are dispensed with, for not entering into the Ministerie, befoze the end of seauen yerres: yet the reason of the lawe abridging the time of continuall absence, and appointing that the flocke be not left without one able to gouerne and teach, the same is to bee extended to all manner of dispensations whatsoever, where the like absence may breed the like daunger. *Vbi eadem ratio, idem ius statuendum est. ff. De vi.* Where one and the selfe same reason is, there one & the selfe same lawe is to be ordained. *De similibus simile debet esse iudicium. In casibus a like, a like iudgement ought to be had. And it is expresse forbidden in the Chapter (QVIA) befoze mentioned, that no perpetuall dispensation for receiuing of Ecclesiasticall fruits be graunted, no not by the Pope himselfe. And there is expresse mention made of him that shall not be resident vppon one of his Churches: that shall be student in anie schools of learning: that shall be absent from his benefice, either at the court of Rome, or at anie other place whatsoever, that euen such a one shall not haue anie perpetuall dispensation, thereby to receiue the fruites and profit of the Church, from the which for anie of those foresayd respectes, he may be absent. Therefore against*

DISPENSATIONS FOR MANY

perpetuities of Pluralities, out of the Chapter (*Is etiam*) and out of the Chapter (*Quia*) before rehearsed, I conclude thus.

- 1 Every Dispensation granted for the enjoying of the fruites of any parish Church, without limitation of a certaine time, is a voyde Dispensation.
- 2 But euery Dispensation granted for the perpetuall receiving of the fruites of any Parish Church, is a Dispensation without limitation of a certaine time.
- 3 Therefore euery such perpetuall Dispensation, is a voyde Dispensation.

THE first Proposition of this Syllogisme, is the Position of the law it selfe. The Minor is most plaine. For whatsoever is perpetuall, the same can not be limited, and whatsoever is limited, the same can not be perpetuall. And this perpetuall in this case, as I sayde before, hath euermore relation to the terme of lyfe, because he is saide to haue a perpetuall in a benefice, that hath a benefice for terme of lyfe. And to take away all sinister and double dealing in this action, you shall vnderstand, that a dispensation granted once for seuen yeares, at the ende of the sayde seuen yeares, may not be renewed and reiterated: for so at the ende of euery seuen yeares, a new dispensation being had, in effect a perpetuall dispensation might be tolerated, and so a man by fraude and couin, might enjoy that, from the which by equitie and law he is altogether secluded. Which fraudulent and disorderly dealing, by certaine general principles and rules in law, is absolutely prohibited. The maxims are these.

Ne statutum ipsum fiat ludibrium, debitoque frustretur effectus, & non rebus, sed verbis, (cum sit potius contrarium faciendum) lex imposita videatur nullatenus ea vice poterit iterato conferris. Quod directe prohibetur, indirecte non conceditur: cum quod vna via prohibetur alicui, ad id alia via non debet admitti: & quod quis in persona sua facere prohibetur, id per subiectam personam exercere non debet. That the Statute it selfe may not be deluded and frustrated of his due effect, and that the law may seeme to be made not for thinges, but for wordes (when the contrary is rather to be done) it may not by any meanes, be againe the second time conferred. And that which is directly prohibited, is not by an other way indirectly to be suffered: Whensoever a thing is forbidden any man one way, the same man ought not to be admitted to the same thing an other way: And that which a man is forbidden to doe in his owne person, he ought not to exercise by a substituted person. So that once againe

*De diuor. c. quanto. §. si.
 & de elec. commiss. l. 6.
 Extr. de regni. iur. c. cum quod.
 ff. de ver. ad ciuils. pert. l. li.
 § 1.*

BENEFICES VNLAWFVLL.

50. againe I saie, if it might please God, to stirre by the hearts of
 her Highnesse Commissioners, to haue a mature and deliberate
 consideration of the statute befoze mentioned, they shal find mat-
 ter sufficient, to pronounce a great number of licences, faculties,
 and dispensations by law, to be meerly boide and of none effect.
 And so manie benefices to be void, and in the hands of her High-
 nesse, vnto whome by lapse, right hath accrued to present. For
 by that statute the Archbishoppe hath no power or authoritie
 to graunt anie other licence, facultie, tolleration, or dispensa-
 tion, then such as befoze the making of the statute, was vsed and
 accustomed to be had and obtained at the sea of Rome, or by
 authoritie thereof. But no licence, facultie, tolleration, or dis-
 pensation, befoze that time was had or obtained at the sea of
 Rome, or by authoritie thereof, for the fruits of anie Parish
 church, by way of anie kinde or manner of anie perpetuall dis-
 pensation, or for anie longer time than for seauen yeares onelie,
 as appeareth by the former Canons, and constitutions, therfore
 none other ought heeretofore to haue beene graunted, neither
 though they haue beene graunted, are they effectuell or auail-
 able, being graunted, *A non iudice, & contra formam iuris scripti, ff. quod vi.*
 by one that is no Iudge, and against the forme of lawe writ-
 ten. *Iudex non potest ultra facere, quam ei concessum est a lege vel l. prohiberi*
consuetudine. A Iudge may not doe beyond that, that is graun-
 ted him by lawe or custome. It is forbidden that Church
 goods shoulde be alienated without a cause, or without authori-
 tie of the superiour. If therfore anie alienation be made of
 Church goodes without a cause, and not by authoritie of the
 superiour, the alienation is boide, *Qua contra ius fiunt, debent*
pro infectis haberi. Things done contrarie to law, ought to be
 accounted as things vndone. And againe, *Sufficit legislatorem*
aliquid prohibuisse, licet non adiecerit, si contra factum fuerit, non
valere. It is sufficient that the lawe maker forbidde, though hee
 shall not adde, that the thing done contrarie to his prohibition
 shall be void. And againe, *Imperiali constitutum est sanctione aperie*
 51. *ut ea qua contra legem fiunt, non solum inutilia, sed etiam pro infectis habenda*
sint. It is plainly decreed by an imperiall constitution, that the
 things done against the lawes, are not onelie vnprofitable, but al-
 so are to be accounted for things vndone. And thus much con-
 cerning the causes and circumstances of dispensations for manie
 benefices. It followeth then in the description of a dispensation, *Glos. Extra*
as you haue scene that the same ought to be graunted, cum causa uagan. de
cognitione, with knowledge of the cause: the reason is this. Duo sunt pre bend.
in dispensatione necessaria, auctoritas dispensantis, & factum per quod
dispens-
6.1.

DISPENSATIONS FOR MANY

excecrabilis dispensatur. Nam in quolibet actu considerari debent duo, factum & ver. ultima **modus.** Two things are necessarie in a dispensation, authoritie of the dispenser, and the fact whereby he shall dispence. For in euerie act two things are to bee considered, the fact, and the manner of the fact. And therefore a Magistrate, hauing authoritie to dispence, ought not vpon the bare assertion, and simple allegation of anie person desirous to be priuiledged, and to haue the Magistrate, to mitigate the rigour and extremitie of common right, graunt anie such mitigation, vnlesse the partie first alleage, and by some lawfull pzoofe, make manifest vnto him, that both touching the abilitie of his person, and the necessitie of his cause, thier ought in equitie an exemption and immunitie bee graunted vnto him. For, *Præiudicia, scilicet the Lawe, are præiudicia alia, & magnum parant præiudicium, & ideo sunt cum plena causa cognitione tractanda, & præiudicium non est dandum, nisi certa ratione inspecta, & non subito, sed cum magna deliberatione.* Priuiledges are pzeudiciall, and bzeede great pzeudice, and are for this cause to be handled with a plenarie decision of the cause: And a Priuiledge is not to be giuen vnlesse the certaine reason thereof be foze-scene & not sodainlie, but with great deliberation and aduise. In which deliberation and aduise ment taken by the iudge: first the allegation or petition of the partie agent or suppliant: secondly, the pzoofe & manifestation of the same his petition, is to be considered. For no dispensation ought to be granted at the proper motion & pleasure of the iudge alone: but euerie dispensation ought to be granted at the instance & petition of the partie alone. *Quia Lex non debet, nec solus, nisi parte postulante: & inuito non debet beneficium conferri: Et sententia debet esse conformis petitioni: Et iudex semper debet iudicare secundum allegata & probata.* Because the lawe ought not to be released, or remitted, but at the petition of the partie: & a sentence ought to be confozmable to the demand: & a Iudge ought euermore to giue sentence, according to things alleaged, & things pzooued. And therefore litherence no other cause by Law, may be alleaged in the court of faculties, for the graunting of anie dispensation, for many benefices, then the verie apparant vtilitie, & vrgent necessitie of the Church: I conclude, that the iudge his dutie and office is, in anie wise not to admit anie other manner of allegation, but to pronounce the same altogether frinolous & to be of no value in law. The Doctozship, the Chaplainship, the worship of anie Ecclesiastical person, are not sufficient causes in this behalfe alone, vnlesse also together with the same, meete & concur the profit and necessitie of the Church. And if the said allegation, as vaine & frinolous, be to be reiected, then no dispensation therevpon

ff. de minor. l. de etate. d. ex de priuileg. c. sane. 7. q. 1. potuisti. bast. l. 1. de col. 4. ver.

§ Hoc autem iudicium. ff. De dam. in. fact. ff. De reg. in iur. l. inuito. & extra de Symo. Licet. h. li. Cod. de fidei com. libent. l. fi.

BENEFICES VNLAWFULL.

Upon ought to be granted: for otherwise the iudge should of necessity, either allow other causes, then the lawe dooth allow, or else pronounce iudgement otherwise, the according to the demand, both which were to to great absurdities. And therfore out of the former rules and principles of Lawe, I argue thus.

- 1 Whatsoever is hurtfull and preiudicial, the same ought advisedly and upon consultation to be graunted :
- 2 But dispensations are hurtfull and preiudicial :
- 3 Therfore dispensations ought advisedly & upon consultation to be graunted: And if euerie dispensation ought to be granted by sentence upon some consultation had, & then euerie sentence upon some consultation had, ought to bee giuen according to things alleaged, and things demanded.

*Extra. de
privileg. c.
sanc.
Extra. de
simo. c. licet
beli.*

In which allegation and demand, to the end the sentence may be conformable to the demand, & so effectually in lawe, must be foreseen two things. First, that there be expressed no false or erroneous cause. Secondly, that the same hide or conceale no truth. For

Ea dicitur legitima dispensatio, in qua nihil tacetur, vel nihil exprimitur, quo expresso vel tacito, princeps verisimiliter duci potest ad dispensationem denegandam. That dispensation is reputed lawfull, wherein nothing is concealed, or nothing is expressed, that being concealed or expressed, the Prince may by likelihood, bee induced to denie the said dispensation. If then euerie sentence must be conformable to the allegation, & euerie iudgement agreeable to the demand, and that neither out of the sentence for a dispensation any known truth, or manifest equitie ought to be concealed, neither in the same any false or erroneous cause ought to be expressed, it followeth of necessity, & euerie allegation, made for a dispensation, ought to be of the same nature, & of the same condition: and the euerie allegation, not of the same nature & condition is an unlawfull allegation, and an unequall petition. Moreover, euerie one that hath authority to dispence, ought to kepe this rule. *Ut statuat, vel dispenset contra ius, aut contra scriptum, si equitas qua mouet ipsum, mouisset legislatorē, si casus nunc emergens esset sibi expositus.* That they ought to dispence against law, or against writ, if such equitie as moueth him, might haue moued the law-maker himself, to haue granted a dispensation, had the case now growing, been proposed at the time of the law making, to the law-maker: It followeth then againe, the equitie being the cause of the sentence for a dispensation, the same equitie, must also be the cause of the allegation for a dispensation. For if the iudge must giue a dispensation, where equitie requireth, the

*Glos. in
extrauag.
execrabilis
de pre.
bend. ver.
ex dispen-
satione.*

Ut statuat, vel dispenset contra ius, aut contra scriptum, si equitas qua mouet ipsum, mouisset legislatorē, si casus nunc emergens esset sibi expositus. That they ought to dispence against law, or against writ, if such equitie as moueth him, might haue moued the law-maker himself, to haue granted a dispensation, had the case now growing, been proposed at the time of the law making, to the law-maker: It followeth then againe, the equitie being the cause of the sentence for a dispensation, the same equitie, must also be the cause of the allegation for a dispensation. For if the iudge must giue a dispensation, where equitie requireth, the

*Glos. in
extrauag.
cōi. col. 3.
ver.*

DISPENSATIONS FOR MANY

partie must then demand a dispensation where equitie requireth. For equitie is alwaies the foundation and ground-wooke of a dispensation. And what equitie? even such equitie, as mighte haue moued the Lawe-maker, to haue graunted a dispensation. Now then, because the Lawe-maker, authorizinge the Archbischop of Cant. to giue dispensations, hath bene the high court of Parliament: It followeth that the Archbishoppe may dispence onelic in such cases, as wherein the high Court of Parliament would haue dispenced, had those cases bene alleaged befoze the high Court of Parliament, which are alleaged befoze the

*ff. De of-
fic. prefect.
preter. l. 1.
in fi.*

Archbischop. *Iudex non aliter iudicare debet, pro sapientia & lucis dignitatis sue, quam princeps esset indicaturus.* A Judge, for the wisdom, and excellencie of his worthie calling, ought no otherwise to iudge, then the Prince himselfe would haue iudged. Suppose then, that such a Cardinall as of whom mention hath bene made, or such an Abbot, whose Abbacie, is a *Nemo fecit*: whose two Ecclesiasticall promotions besides, are at the least worth five hundreded markes by the yeare: suppose (I saie) that such a Cardinall, should come into the Parliament house, and after lowe obeysaunce made, preferre this or the like Bill to the speaker, beseeching the whole house, vpon the reading thereof, and the equitie of his cause, to graunt his sute. I A. B. Clarke, saie, alleage, and shewe, befoze your excellent wisdomes, that the Church of S. S. by the naturall death of D. H. late incumbent, is become vacant: and that I the sayde A. B. am qualifi-

*Non potest
dispensatio
super plu-
ralitate be-
neficiorum
concessu
impetran-
ti prodesse,
qui ali-
quod quā-
sumcuq;
modicum
beneficium
conscruit
in eadem.*

ed, according to the Statutes of the Realme: and the Patronage of the same Benefice, hath presented mee therevnto: and that I am possessed already of such and such a spirituall promotion: and that I am bound by the Statutes of my house, to bee resident in the same, thre moneths in the yeare: and that I am bound by the Statutes of the Church of one of my promotions, to bee present in the same Church two moneths in the yeare: and that I am bound by the Statutes of the Church of my other promotion, to be present there thre moneths in the yeare: and that I am bound by my alleagiance to her highnesse, to bee present else where some whole quarter of the yere. And that the soules of the people of the foresayde Parish, are in daunger of the wolfe, not hauing a Pastor to feede them: and that y^e euident vtilitie and vrgent necessitie of the same Church, requireth a gouernour, may it therefore now please your wisdomes to award mee a dispensation, to inioye the fruites of the same Church, to tollerate mine absence, and to bee Nonresident, &c. Suppose (I saie) that this or the like supplication were

BENEFICES VNLAWFVLL.

were made by a plurified Priest in the Parliament house, would the house, trowe you, bee mooued presentlie to yeeld to so vnjust a petition? I trowe nay. For the partie should expresse in his petition, all things to be expresseed, and conceale nothing to bee concealed, as by the first rule before repeated is required: yet the house would no doubt, be mindfull of the second rule, and dispute the equitie of his cause, and so award iudgement accordingly: they would not vpon so bare & naked assertion, decline from iustice and equitie: And no doubt the speaker himselfe would be blinde to peruse such a bill, much lesse would he present such a bill to the house to bee discussed, though for his fee (beeing a priuate bill) he might be verie liberallie rewarded. In Archb. then ought to be tight well abused, and take heed how, for a trifle hee either admit anie such bill or allegation, or having once admitted it, how hee passe the same vnder his publike and authentike Seale. In as much as he ought not to admit anie other allegation, or passe anie other dispensation, then such as the high court of Parliament in their wisdomes would admit and passe. And therefore I conclude thus:

- 1 Whatsoeuer allegation, or dispensation the Lawe-maker, viz. the high court of Parliament, would not admit or passe vnto a plurified man, the same allegation or dispensation the Archbishop ought not to admit or passe:
- 2 But the Law maker, viz. the high court of Parliament, would not admit or passe anie allegation or dispensation, to such plurified Priests, making such a petition, as hath bene mentioned:
- 3 Therefore the Archbishop ought not to admit or passe anie such.

THE Maior proposition is a rule of Lawe: the Minor proposition is euident vnto euerie one, that duetifullie considereth, with what wisdom, iustice, and equitie the high court of Parliament determineth matters amongst them discussed. They are not contented to haue a Bill barelie read vnto them, but they thoroughlie examine the reasons and proofes of him that preferreth the same. For as I sayd before, truth, equitie, and diuerse circumstances, must not onelie be alleaged, but the lawe requireth, the same to be proued also. He that hath right and interest to an inheritance, oftentimes looseth it for want of prooffe. He that alleagerth himselfe to bee bozne of some noble parentage, and hee that alleagerth himselfe to remaine at studie, must proue

*Bart. & alij doctores
in l. 1.
Cod. de prob.*

DISPENSATIONS FOR MANY

the same. If a papill damaged by any contract, made by him under age, shall require ayde of the P[re]tor to be restored to his former right, he must prooue that he was under age at the tyme of the contract, and also that he hath sustained detriment by the same contract. Otherwise the p[re]tor ought not to giue restitution, where one by force is spoiled of his possession, and requireth to be restored thereunto, he must not onely alleage, but also prooue force and possession. The Church that by negligence of any P[re]tor or Sollicitor shall alleage hir selfe, by his negligence to be hurt, and to suffer losse in hir substance, and for that cause seeketh helpe at the hands of hir superiour, to be restored to hir former estate, must prooue as well the negligence committed, as the damage sustained in that behalfe. The lyke is verified of one that is dispossessed of his goods, in y^e time of his absence beyond the Seas. And so it is required in graunting any priuiledge immunitie or dispensation for many benefices. The party desirous to haue a mitigation of the rigour of common Law, ought to prooue, that as well in consideration of his person, as for the reasonablenesse of his cause, the Judge in equitie and conscience, ought to graunt an immunitie. And this prooue that it be substantiall and good in Law, must be made either by the confession of the party, either by witnessses, eyther by some Authentike and publique instrument, either by the euidence and notoziousnesse of the fact it selfe. Touching which proofes, how substantially they haue bene made, I referre the Reader to the records of the prerogative Court, where, no doubt for the Judges owne credite, they are safely kept: and as publique Records, to be seene of any man, desirous to know Antiquities. For my parte, though I confesse that the dignitie and worthinesse of a person to be priuiledged, may easily be prooued, yet can I not imagine, by which of these proofes, the causes required by law, as bzgent necessitie, and euident vtilitie of the Church, destitute of a Pastor, should in these our dayes be manifested: the Church it selfe. viz. The congregation, (I suppose) will neuer confesse it behoouefull for them to haue their pastor absent, & to giue their tempozal things, to enioy spirituall things, and yet to be depriued of both spirituall and tempozall. As concerning prooue by witnessses, or by publique instrument, because witnessses must yelde a reason of their sayings, and a publique instrument ought to be made, by a faithfull man, at the request of the partie: and because no witnessse can peeelde any reason, why his neighbour should not be taught, and euery faithfull man will doe all thinges for the trueth, and nothing against the trueth: and because the trueth is, that his

*Authent.**Colla § re-
neantur.**Glof §
doc. in pro-
he. l. 6.**Glof ex-
tra. de re-
stitu. spoli-
at. c. olim.**ver. resti-
tutione.**Extra of-
fic. de leg. c.
consultati-
onem.**Extra de
restitu.
spol. c. cum
ad sedem.*

BENEFICES VNLAWFVLL.

Neigh, our should be taught, and no man will desire to be taught: therefore as concerning these prooves, I cannot imagine (I saye) how they should be made. It resteth then, that the euidence of the fact, must be the proove, whereon pluriſied men relie, that the vrgent neceſſitie, and euident vilitie of the Church, for the hauing of many benefices, is a thing ſo notori-
ous and euident to all the worlde, that none may deny the ſame. wherem how groſſe and palpable their errour is, I leane to the conſideration of indifferent men, thorow out the whole worlde.

Now, if you ad this laſt parte of the definition of a Diſpenſation, and ſuppoſe that it muſt be graunted, *Cum cauſa cognitione*, with knowledge of the cauſe, that is by alleadging and proo-
uing thinges inſte and equall in the ſight and iudgement of the Parliament houſe, you ſhall finde either ail, or the moſt parte of Diſpenſations graunted in the Courte of Faculties for ma-
nic Benefices, not to be the thinges deſired, and ſo to be no-
thing in effect at all, and therefore though they as yet ſeeme to ſtande good by Lawe, yet to be ſuche as ought to be reuoked and made voyde by Lawe.

159. *Quicquid contra leges accipitur, per leges diſſoluitur meretur.* Whatſocuer is admitted againſte Lawe, deſerueth to be looſed by Lawe.

*Et ſic eos volumus priuilegiorum ſuorum ſeruare tenorem, quod eorum metas transgredi minimè vide-
antur.* And we will them ſo to keepe the tenor of their Priuile-
ges, that they ſeeme not in any cauſe to paſſe their boundes.

*Nam qui permiſſa ſibi abutiſtur poteſtate, priuilegium meretur amit-
tere: Et qui malitioſe priuilegium, principis interpretatur, infamiſ priuileg.
efficitur.* For hee that abuſeth power graunted vnto him, deſer-
ueth to looſe his Priuiledge: and hee that malitiouſlie inter-
preteth the Priuiledge of a Prince, is made infamous.

*Be-ſides theſe there are diuerſe and ſundrie other cauſes, for the
which alſo, a Priuiledge as vnlawfull is reuocable. Prima-
tur quis priuilegio propter ſcandalum: Et qui non exercet ad ſub-
ditorum vtilitatem, ſed ad ſuam voluntatem, &c.* A man looſeth
his Priuiledge, if an offence growe by meanes of his Priuileg-
ledge: and hee that dooth not exerciſe his Priuiledge to the
profit of ſuch as are vnder him, but at his owne pleaſure,

ſuch a man looſeth his priuiledge: And a reſcript ought to bee
ſuch, that it hurt none: and at what time ſo euer a priuiledge
turneth to iniquitie, it forth-with preuaileth not: neither ought
the Pope for the increaſe of his owne honour, diminith the right
of the Church, or of anie other. And the reaſon is this.

*Propter ſſ. de vulg.
evidentem vtilitatem Et enorme, damnum re-ideretur ab eo quod diu vſu Et pupil.
Obtentum eſt.* For ſome common profit & ſome inordinate hurt,

DISPENSATIONS FOR MANY

lex patto.
Et glos. c.
imperator.
ver quod
non.
25. q. 2.
xcix. di-
stinct. ec-
clesia.
ff. de con-
situ.
princ. l. pe-
mult.
De glos in
c. quid per-
nouale. Ex-
tra. de ver.
6. signifi. c.
magis. lib.
6. De re-
scrip. sta-
tutum.

we forgo that, that a long time hath ben vsed and obserued. Now, whether the lawfull bounds of dispensations bee passed, whether they be abused or maliciouslie vsed : whether anie offence growe by them : whether they bee vsed rather to \S profit of the people, then to the pleasure of the person : whether anie iniustice be committed, and the right or title of anie other bee impeached : or as anie great damage ensue by them, I referre it to the iudgement of men of experience in our time. Sure I am that the Lordes seruants speake against them, preach against them, and write against them : Sure I am, that the vices growing by them are as ripe as euer they haue bene in anie age heeretofore : Sure I am that the prosperous state of the Ministerie is impouerished by them : Sure I am that the people are vntaught by them : And sure I am that the Lorde is dishonoured by them, and his Gospell hindered by them. *Cessante causa, cessare debet effectus*, the cause ceasing, the effect ought to cease. The assumption is manifest. For equirie grounded vppon vtilitie and necessitie of the Church, was the cause of Dispensations : but the equitie ceaseth, therefore the other shoulde cease. What is more contrarie to naturall reason (saith a Lawyer of singular iudgement) then that one and the selfe same man shoulde take vnto himselfe diuerse stipends of the Church in diuerse and farre distant places : What common wealth of man (sayth hee) suffereth her Judges, her Rulers, her Notaries, and other officers to gadde abroade, and in their absence to inioye their stipendes : What man though his House bee ample and verie rich, dooth paie to his seruaunt absenting himselfe the wages due to many seruants : or admitterh to serue in his roome whome so euer the same his seruant shall appoint him in his roome : onelie the house of God, the holie Church, is by such inordinarie dealing depriued of her Ministerie, and defrauded of her lawfull dueties. What : shall the Church of God, the best beloued spouse of Iesus Christ, which he hath redeemed by whippings, by buffets, & by the shedding of his blood, feede hawkes, bzing vp dogs, pamper horses, nourish whoozes, flatterers, and seditious men, which trouble the common wealth, and in the end concludeth thus, *Effectus dispensationis est, ut si perperam conceße sit, tam animam concedentis, quam dispensantis, ad infernum deducat*. The effect of a Dispensation is, that if it be graunted vnderlic, it carrieth the soule, as well of him that giueth it, as of him that receiveth it, to hell : whereas it may be supposed, that fees paid into the Manaper, by passing of Dispensations vnder the great scale, are a great increase

Rebuff. de
dispensati-
one ad plu-
ra, bene.
fic fo. 149
64.

increase of her Highnesse treasure, and an augmentation of her reuenues. I aunswere, that dispensations for Symonie, Non-residencie, and manie benefices, are so farre from beeing anie increase of her Maiesties treasures, as y they are indeed a great diminishing of the same. For first, as touching dispensations for Symonie, whereas by euery dispensation granted vnto a Symoniacall person, her Highnesse receiueth into her hanaper at the most **thillings**: the greatest ordinarie fee limited by the said statute, for anie dispensation to be graunted her Maiestie for the same, **looseth 10. 20. 30. 40. or 50. pounds**, to be paid into the court of **Tenthis and First-fruits**. For, were the partie committing Symonie, for the same offence by lawe depriued from his benefice, her Highnesse were then to haue of the next incumbent, the whole **First-fruits** of the said benefice, euen ten times so much at the least, as is paid into her hanaper: or were the Symoniacall person a pluralitie man, and so depriued from all his benefices and Ecclesiasticall promotions, her Highnesse were then to haue, the whole first-fruits of all his benefices and promotions **fortie times** so much as she enioieth by graunting his dispensation. And as touching the fees due for dispensations, graunted for many benefices, though the same fees may happly amount in some one yeare, to manie hundreds: yet by meanes of the saide dispensations, her Highnesse is empouerished yearely by manie thousands. The oftener euerie benefice or promotion is boide, by death, resignation or depriuati- on, the oftner is an other admitted vnto the same, and the oft- ner doth her Highnesse receiue the **First-fruits** of anie such be- nefice. Now it is euident, that the conioining of two, three, foure, or five thousand benefices or promotions vnto one thou- sand men by dispensations, is a manifest impediment to the auoiding of so manie incumbents from so manie benefices, as which by death, resignation or depriuati- on of the saide incum- bents, might and were likely to be made boide. And so the said dispensations, being an hinderance to the auoiding of be- nefices, they must necessarily be also a verie direct meanes to keepe from her Exchequer that treasure, that otherwise should ordinarily be bzought vnto it. And though by the death, resigna- tion, or depriuati- on of euerie pluralitie man, euery of his benefices be made void: yet his said benefices are not so often made boide, as otherwise they should be. And therefore though her High- nesse haue the first fruits of two, three, foure or five benefices in the handes of one Pluralitie man, dying, resigning, or be- ing depriued: yet hath shee not the first fruits of the saide benefice

benefice so often as otherwise she might haue, whereby her reuenues are lessened. Since therfore for one mā to inioy many benefices by dispensatiō, maintaineth couetousnesse, & is contrarie to the ancient Canons: maintaineth ambition, & ministrereth matter for a roaging, a gadding, & a dissolute ministerie: since it conueieth stipends due vnto many, fro many vnto one: since it is an hinderance of residence, and containeth perill of soules: Since it is a kind of theft, raine & spoile: Since it is vndecent & vncomelie: Since it is contrarie to the good customes of the Church: Since the honour of the church therby is defiled, & authoritie therof contemned, the truth of Christ troden vnder foote, and lone banished: Since among the rich Prelates and plurified men themselves, strifes, contentions, bzaules and enuies arise, and are nourished: Since the fire of God his wrath is kindled against vs by them: Since it is against the lawe of nature, & repugnant to the lawe of God, and therfore nourisheth a monster in nature: since it is against the weale, peace, profit and conseruation of the realme: since it is against the vtilitie of the Church, and that the necessitie of the Church requireth the cleane contrarie: Since it is pzeiudicial and derogatorie to the last wils and Testaments of our suncestors: since it is dishonourable and dangerous for her maiesties person and safetie: since priuate necessitie and pouertie is no sufficient cause for the maintenance thereof: Since the miserable penurie of our stipendarie Curates therby is made intollerable. And againe, since all these thinges are offensive, and that a priuiledge so soone as it becommeth offensive, and not exercised to the profit of many, but to the will of one: is forthwith to bee with-drawn: Since euerie priuiledge ought to bee such, that it damnisie none: and since it forthwith looseth the name of a priuiledge, if once it turne to anie iniustice: since that nothing is moze contrarie to naturall reason, then that one and the selfe same man should take vnto himselfe diuerse stipends of the church, in diuerse and farre distant places: since it is against the pollicie of euerie good common-wealth of man: since it is contrarie to the gouernment of euerie good and prouident householder: since it carrieth headlong the soules, as well of him that giveth it, as of him that taketh it, to hell: yea, and since it is an impouerishing of her Maiesties treasure, & diminishing of her reuenues:

Let vs conclude, for one man to inioy two or more benefices by dispensation, to be a thing altogether intollerable and vtterlie vnlawfull.



AN ANSWER
To the two first and principall Treatises
of a certeine factious libell, put soorth latelie,
without name of Author or Printer, and
without approbation by authoritie,
vnder the title of

An Abstract of certeine Acts of Par-
lement: of certeine hir Maiesties
Iniunctions: of certeine
Canons, &c.

Galath. 5.

He that troubleth you, shall beare his con-
demnation whosoever he be.

Hieron: ad Pammachium. epist. 26.

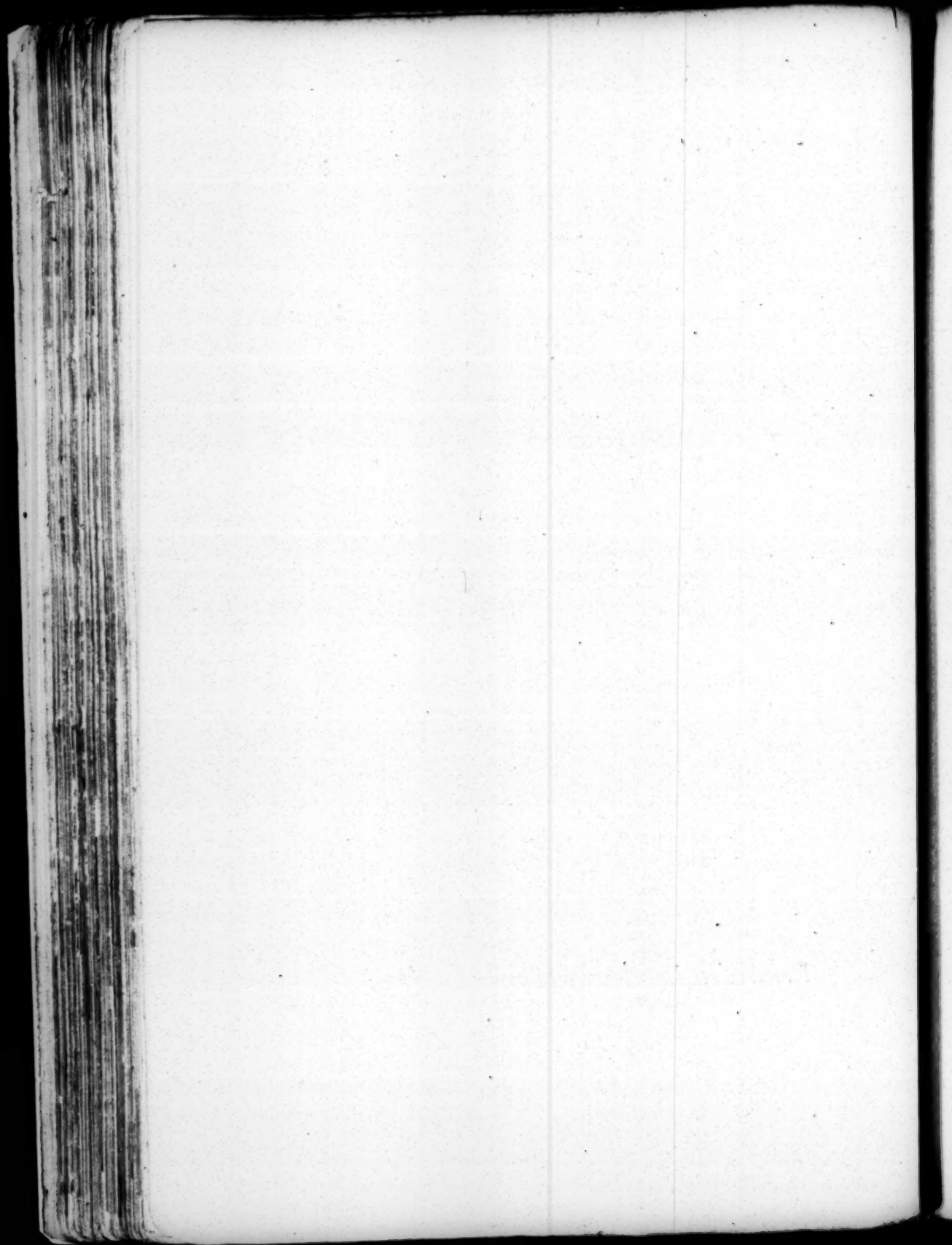
*Facile abicitur, quod hæret extrinsecus: intesti-
num bellum periculosius est: coniuncta dis-
glutinamus, vnita dissuimus.*

Published by authoritie.



Printed at London by Henrie Denham
for Thomas Chard.

1584.





Concerning the Title and the Epistle of the Booke.



If the author of that
booke whosoever, had bin
inoned of god zeale and
cōscience (wherof in eue-
rie passage of it he giueth
eident pꝛoofe to the con-
trarie) to haue aduertis-
sed gouernours of this
church and church mat-
ters, of some wholsome
lawes In force, to them
(as he pretendeth) Vn-
knowne, and therefore
necessarilie by them vn-
practised, to the intent
his admonition might
indeed haue bene profit-

table hereafter. For the peaceable gouernement of the church; it had
bin then as much thankworthe in him, as now, fauoring so strong-
lie of rancor and contention, it deserueth punishment. But then
would he not haue soisted it to a make-shift, to haue bene printed in
hugger mugger, but would haue addressed it to those, vnto whome
the execution of such pretended necessarie, and yet disused lawes, ap-
pertaineth: then should not the printed copies thereof, as not da-
ring to looke out at noone-day, haue bene so sone shuffed by, and sent
by hundreds into mutinous places abroad, thought most to fauour
such factious writings: then should not his alledged texts of acts,
canons, &c. haue come out accompanied with such peruerse glosses
Que corrumptis sexsion, particularizing at pleasure, *Tanquam* μαρτυ-
ροεις *Αίας*, vpon such persons as his distempered affections can-
not brooke: neither would his booke haue growen to that bignesse,
but that it might well haue carried the title of an Abstract; where-
as now by wringing & wrestling, by shrinking & stretching of lawes,
by gnawing and nipping at particular mens dealings calumnious-
lie, and traducing them *Quasi in veteri comedia*, both the author dooth
seeme Distract of modestie, and by his booke is found *Tanquam* *forex*

A. G.

proprio

Concerning the Title and the

proprio iudicio, to want that insight in law, that he would so faine be intitled vnto. In which Acts, iniunctions, canons, &c: because he was loath to appeare to haue no more skill than ordinarie, he saith they were For the most part heretofore vnkowne: wherby he must needs For the most part hold those excused, of whome they were vnpractised: and therefore in his booke ought not so egerlie to haue bitten at them, for vndue practise of such mysteries, as till now it pleased him not to reueale vnto them. And surelie, looking into the present time and occasion, I cannot be otherwise led to thinke, but that this proctor, of peruersenesse being netled that his clients are now by force of hir Maiesties godlie lawes, sought something to be recalled backe, from their fantastickall breaches of the lawfull vnitie and vniformitie of this church, too long by them vsed to the great animating of the papist: and that none of his priuat hot apologies for them doe giue anie sufficient colour of law or equitie to protect them, doth now thinke, he shall be sufficientlie therefore reuenged, by beating backe one naile with another, and by objecting breach of law also vnto those graue Fathers, whome hir Maiestie hath put in authoritie, for reducing of others to conformance of hir lawes ecclesiasticall. whose faults and oversightes (if any such be as are supposed) as they are not by themselves defended, or by others to be excused; so in christian charitie, ought they not in this manner, as Cham did his fathers nakednesse, to be laid open, and *Quasi in scena* insulted vpon, to the thrusting through of religion, by the sides of the ancientest, learnedest, and most godlie professors thereof. Neither doth it become euerie triobolar mate, thus couertlie to carpe, either at hir Maiesties singular wisdomme, who with the aduise and assistance of hir renowned wise Councell, hath made choise of those Fathers, as hauing more integritie and sufficiencie than he is willing by any meanes to agnise: or at the lawes of the land by parliament heretofore established, where they satisfie not his appetite, not onlie disputing against them, but ouer-ruling *Quasi censoria* virgula, in what manner they ought to be altered, according to his deepe iudgement: or so dangerously to enforce so great innouation, or yet so spitefullie to sow seeds of dissention, amongst the Great men of the land. which course of his, if others should vpon this occasion begin to vse against himselfe, and those whome he so affecteth by setting downe, out of their speeches, preachings and writings, grosse absurdities, and dangerous errors in opinion, and by their practise the violent breaches of sundrie lawes and statutes of this realme, not committed vpon ignorance or frailtie, but stoutlie stood vnto, and maintained; I doe coniecture, that both he and they would quicklie repent them, for offering to put their matter to triall vpon such an issue. But it is well knowne to childezen, that, although it is most conuenient for him to be free from blame, who is readie to accuse or iudge another, yet one mans fault is not any warrantise for any other

3. q. 7. c. 94.
sine c. iudices.
6. postulat. iur.

Epistle of the Booke.

other man to doe amisse, and yet how little he hath found or effected of that, which he hoped for, and *Tanto cum hiatu* promised, the discourse following shall (I hope) in part make manifest.

In his Epistle to the Reader is pretended, these paines of his, chiefe to haue bene undertaken, that By better execution of these lawes, manie and notable points of such controuersies as haue bene a long time amongst vs, might more easilie and speedilie by the same lawes be decided. By which controuersies and contention about Reformation of ecclesiasticall discipline and popish ceremonies, he saith, The quiet and peaceable estate both of the church and common-wealth, haue bene shrewdlie troubled, and brought in hazard. Surelie though his swish of excommunication, not to be inflicted by one alone, would (if it were expedient) put some of them in a kind of Paradise, of obtaining their soueraintie of seniors in euerie parish, the want whereof breedeth these threats of hazard to the common-wealth, and which is the onelie thing they meane, by Reformation of ecclesiasticall discipline, and the Helena which they contend for, naie the popedome which they gape after, as though no other course (this now in vse being once abrogated) could be taken or deuised, but that: yet can I not conceiue, but their seniors, which will sometime intermeddle vnder pretense of conscience or charitie, with euerie kind of matter most ciuill, euen to the reuerfall of iudgements, as is notozious where that consistorie is settled; shall lesse as much another waie, if all matters now handled in ecclesiasticall courts should* (according to this mans deuise) as more ciuill causes be haied awaie from them, vnto the temporall courts. As for all the other points of the booke, if this turbulent Tribune, might of his absolute power, inspire them with the life of lawes; they would no more doe good vnto his clients about their breaches or impugnings of the booke of Common praier, or for their hot skirmishing with the cereinonies of our church, odiouslie by him termed Popish, than *in τῇ φωνῇ μίση*, or the smoke of a hot iadle would doe good to a man that is hungrie. And therefore herein, he hath not (otherwise than by tickling factious humors, which are delighted to heare their betters girded) any iot pleased His brethren and neighbors, for whose sakes he hath atchiued this doughtie peece of worke. Another cause is alledged for the enterprize of this worke, The defense of hir Highnesse lawes. How manie of these by him brought, are to be called in truth hir Maiesties lawes in force, remaineth to be discusled. But how agreeth this with that* part of his booke, where he calleth these hir Maiesties lawes and all The ecclesiasticall law popish, to be abandoned, and as a froth or filth to bespewed out of the common-weale: that hir Maiestie can not grasse hir capitall enimie so much, as by authorising and practising his lawes; that it were not a dodkin matter, all the bookes thereof were

* Pag. 234.

* Pag. 238.

A contrarie-
tie in the au-
thor.

I. iij.

laid

Concerning the Title and the

laid on a heape in Smithfield, & sacrificed in a fire vnto the Lord: &c. Such faults as these beeing *μνημονικα ἀμαρτήματα* will seldome be wanting *In multiloquio*. But I praise God, send hir Maiesties lawes better patrones, than such: as in a published booke dare dispute against sundrie of them, father such for lawes as be not, and which he himselfe in a generalitie dooth condemne; and which fostereth and cherisheth manifest and wilfull breakers of hir Maiesties lawes in deed, and also inueigheth bitterlie against such, as according to law and trust reposed in them, by hir Maiestie, doe seeke to reforme and reclaine such offenders of law, from their former contempts, in despite of whom, and in fauor of such wilfull lawbreakers, all in this booke to haue bene written, a man which hath but halfe an eye, may easilie discern: and not In defense of hir Highnesse lawes, as hypocriticallie is auowched, neither yet for anie Peace and prosperitie in the wals and palaces of Ierusalem, which I praise God by other better meanes than this, to grant to this church, vnder the long, peaceable, and prosperous gouernement of our soueraigne Ladie Elizabeth, for his Christs sake: Amen.



The Booke, Pag. 1, & 2.



WE read of some politike capitaine of this our countrie, that haue partlie vsed the arrowes shot short at themselves, against their enimies, and partlie haue suffered them to sticke still, to annoie their first owners at the topping of the battell: euen so, our authoz is here content verie politike,

to alledge against vs the establishing by act of parliament 25. H. 8. of Canons, constitutions, ordinances, and synodals prouinciall, to the intent, and in hope to beat vs with our owne weapons, and not for any loue or liking he beareth vnto them: which he sufficientlie bewraicheth in sundrie parts of his booke, and is sozie (I dare say) that so much of them is in force. And although it can not be denied, but that manie of them were published by latter Popes, after that See was become the chaire of pestilence, a cage of vncleane birds: *Et postquam ciuitas fidelis facta fuit meretrix*: yet such amongst them as fight not with the euerlasting word of God, or the lawes and customes of this land, being set downe no doubt by aduise of the best learned lawyers in those times, though vnder Antichrists authority, and being now indenized and made English by the synodall church

Epistle of the Booke.

church and common-weale in parlement, are no more in that regard to be abandoned, than wheate because it was inuented by the heathen goddesses Ceres, manie good ciuill lawes of the Romanes, set out by Painims and cruell persecutors of Gods saints, (for no one author of the Pandects is thought to haue bene christian but Gaius) or than pretious stones, and gold of Ophir in Salomons time, because as some * thinke they were set from among the Canibals, eaters of mans flesh, and other parts now called the West Indies, being both then and now grosse idolaters. And howsoeuer manie of the said Canons, &c: doe carie with them, the grosse and superstition of those times, being promulged for the vpholding of Poperie: yet for manie points (I beleue) all the best heads now in the world being laid together, and taking no light from thence, were not in manie yeeres able for sinceritie and equitie, to set downe the like ordinances in those causes. And no maruell, seeing they were both vpon mature deliberation of the best lawyers deliuered, and were so long in gathering together, vpon seuerall occasions, from time to time falling out, which for the varietie of them, no one mans life is possible to haue experience of, and therefore mans wit not able to forecast or provide for. But I muse how this could so escape the criticall and Lynceus eyes of such an Aristarchus, as that hee which rappeth out so manie syllogisines in Barbara & Darij, throughout his whole booke, should be so ignorant (for I will not say it was of malice) as, in that argument which he maketh the groundworke to set his whole frame vpon, to deliuer vs a Fallax *καὶ τὸ ἀπορία δόγμα*, by curtailing off, in *Assumpto* a piece of his *Medium*, and so *ἐν τῷ δόγματι* to make *Quatuor terminos* in his principall syllogisme. For although it be confessed on all parts, Such canons, constitutions, &c: as be not contrariant nor repugnant to the lawes, statutes, and customes of this realme, nor to the damage or hurt of the Queenes prerogatiue roiall, as they were vsed and executed before the making of that act, shall now still be vsed and executed: yet if he would haue assumed in his *Minor* proposition (as by the rules of reason and reasoning he ought to haue done) that those points which he toucheth in his booke, were Not repugnant to the customes of this realme, but were in vse and execution before the making of that act. (All which he cunninglie left out:) then because we learne by law, *Quod facta non presumuntur*, matters in fact are not intended to be done, till they be proued so: we would haue put him to his profe herein, as we must doe still, and in the meane time say, that he hath gaped wide to say nothing to the purpose, and that in his whole booke he hath talked, but not reasoned. So that till he can make it appeare, that The canons specified in anie part of his treatise, are not contrariant or repugnant to the customes of this realme, but were vsed and executed before the making of that act: he can not enforce the vse of them now, being by the act limited to be vsed and executed no otherwise, but as they were before the making of it. which

* *Goropius.*

A childish fallacie in his principall reason.

Concerning the Title and the

answer might serue, without anie more adu, vnto his whole discourse, which therfore hangeth no other wise together, than *Scope* *dis-*
solutus, or than a rope of sand. yet we will not deale so sparinglie and
peremptorie with the man, but will shew vnto him diuers canons,
constitutions, and synodals prouinciall, neither Contrarie nor re-
pugnant to the lawes, nor to the damage or hurt of hir Maiesties pre-
rogatiue roiall; which hauing not by the customes of this realme
bene vled, and executed, he himself being better aduised, will not say
to be in force of law, or now necessarie to be put in vze or practise.
And although the generall word of Constitutions, put downe in the
act may seeme to extend vnto constitutions made by christian em-
perours, for ecclesiasticall persons and matters, as the author se-
meth to thinke, whercof sundrie to this purpose might be brought:
yet because it is put after Canons, whercof (sauing some canons for
matter of faith agreed on before, by certaine generall counceils) there
were but few set out at that tyme: I doe coniecture none other con-
stitutions to be ment thereby, but such Prouinciall, as were gather-
red together by Lindewood, or Nationall, as were framed by Orto
and Octobonus: and therefore I will not weare the reader with
such superfluous allegations. First therfore to begin with the
canons collected by Gratian, it will easilie appeare that there be ve-
rie manie such which are neither repugnant to any lawes that I do
know, or haue heard reported for lawes within this land, nor hurt-
full anie way to hir Maiesties roiall prerogatiue, which yet are by
generall custome thereof, so long disused, that no man can iustlie say
they are in force still, amongst vs; which for breuitie sake, I will set
downe in as short a summarie as I can find them gathered. ^a That
rules of physike are to be holden as contrarie to a diuine state, which
in some case forbid fasting. ^b That none are to confirme, or to be
confirmed, but fasting. ^c That baptism must be conferred with
three dippings into the water. ^d That a man may not fast on the
Thursday. ^e That on the Lords day, or in the feast of whitsum-
tide, in praieng we ought not to kneele. ^f That a church may not
be consecrated to holie assemblies, wherein a pagan or heathen hath
bene buried. ^g That publike and solemne penance may not twise
be inflicted. ^h That women may not sue their husbands for adul-
terie. ⁱ That he is an abbettor of filthinesse, that putteth not away
his aduitresse wife. ^k That a man and a wife may not promise for
a child in baptism together. ^l That if a man by any casualtie
should offer his owne child to the Bishop to be confirmed, he ought to
be separated from his wife. ^m That a man may lawfullie put a-
way his wife, which seeketh to persuade him to that which is euill.
ⁿ That he which maketh an image, and will not repent, is to be
put away by the husband. ^o That it is a kind of idolatrie to search
after the course of the starres. ^p That heretikes after their death
are to be excommunicated. ^q That without great necessitie, it is not
lawfull

Page 16.

- ^a De confirm.
dist. 5. c. contr.
- ^b Ibid. c. ut ie-
iuni. c. ut episc.
- ^c c. in Synodo.
dist. 4. de Bap-
tismo.
- ^d c. peruenit
dist. 3. de feriis.
- ^e c. quoniam i-
bidem.
- ^f c. ecclesiam 1.
dist. 1. de feriis.
- ^g Dist. 3. de
pœnit. per so-
cium.
- ^h 32. q. 1. c. a-
pud S. crimen.
- ⁱ 32. q. 1. c. si-
cut.
- ^k 30. q. 3. c.
quod autem.
- ^l 30. q. 1. c.
peruenit.
- ^m 28. q. 1. c.
idololat.
- ⁿ Ibid. e. non
solum.
- ^o 26. q. 2. sed
et illud.
- ^p 24. q. 2. c.
vlt.
- ^q 23. q. 8. c. si
nulla.

Epistle of the Booke.

lawfull to go to warre in Lent time. ¹ That with the enemies to religion, we are bound to wage warre. ¹ That a man ought to be fasting when he taketh an oth. ¹ That he shall neuer during life be admitted to communicate, which hath suborned perurie. ¹ That he may be accounted to haue forsworne himselfe, that goeth about to do otherwise than he hath promised. ² That a woman may not be admitted to accuse a priest, or to beare witnesse against him. ¹ That to publike instruments, priests are not to be called to beare witnesse. ² That a Bishop, though he be urged, ought not to go to law about temporall matters. ² That a Bishop dieng intestate, the church succeedeth wholie into all his goods. ¹ That of those things which priests do buy, they should make the writings in the churches name. ¹ That a Bishop hauing no heire, ought to make the church his heire. ¹ That all clearkes are to liue together in a communitee. ¹ That he which would appeale from a Bishop, must sue to a synod. ¹ That a priest, which is deposed by a Bishop, must complaine thereof to the next Bishops. ¹ That the Bishop, ought yearly to visit his diocesse. ¹ That he ought to haue the halfe of all oblations. ¹ That none should be admitted to accuse or testifie against a priest, which either was not or could not be a priest himselfe. ¹ That the shepe ought not to accuse the shepheard, except he swarue from the true faith. ¹ That lay men may not accuse clergie men, nor clergie men those of the laitie. ¹ That a Bishop can not be condemned, but with seuentie and two witnesses. ¹ That an oth is not to be exacted of priests. ¹ That he which is able to sustaine himselfe of his owne charges, should receiue no stipend of the church. ¹ That archdeacons should not exercise iurisdiction ouer priests. ¹ That there ought to be seuen deacons in euerie citie. ¹ That a priest which hath lost his eye, is not to receiue any dueties. ¹ That such as haue serued in warres, or haue sued in courts after they were baptized, may not be ordeined. ¹ That it is not lawfull for a clearke to do publike and solemne penance, nor for him that hath such penance to be performed, to be ordeined. ¹ That it is not lawfull to eat, or to haue a bed set in a place that is dedicated to God. ² That Bishops are to be reprehended which traine by their children in humane learning. ¹ That Bishops may not read booke compiled by heathen men. ² That priests may not be at marriage feasts. ² That those which be in clerical order, should begin to fast at *Quinquagesima*. ¹ That all clerks should abstaine from flesh, seuen whole weeks before Easter. ¹ That a Bishop when he visiteth, must haue nothing to drinke but milke. And that a husband ought not to keepe companie with his wife, till the child that was borne betwixt them were weaned, with diuers other not vnlike to these. In like maner there be diuers other parts of the canon law, which neither being repugnant to any lawes

¹ 23. q. 4. c. *si-
cut.*
¹ 22. q. 5. c. *ha-
mestum.*
¹ *Ibid* c. *si quis
conuictus.*
¹ 2. q. 2. c. *in
dolo.*
² 15. q. 3. c.
tertio.
¹ 14. q. 2. c.
quancumque.
² 14. q. 1. c.
Episcopus.
¹ 12. q. 5. c. *uile.*
¹ 12. q. 4. c.
presbyter.
¹ 12. q. 2. c. *E-
piscopus.*
¹ 12. q. 1. c. *de-
lect.*
¹ 11. q. 3. c.
Clericus.
¹ 11. q. 3. c. *si
Episcopus.*
¹ 1. q. 1. c. *de
cruciatum.*
¹ *Ibidem* c. *an-
tiquos.*
¹ 2. q. 7. c. *ipso.*
¹ *Ibid* c. *uicis.*
¹ *Ibid* c. *sicut.*
¹ 2. q. 5. c. *mul-
lam.*
¹ 3. q. 4. c. *sa-
cramentum.*
¹ 1. q. 2. c. *Cle-
ricos.*
¹ c. *dictum est*
dist. 94.
¹ q. *Diaconi.*
dist. 92.
¹ c. *si euange-
lia dist. 55.*
¹ c. *aliquantulum.*
dist. 51.
¹ c. *illud dist.*
50.
¹ c. *non opor-
tet dist. 42.*
¹ c. *elegant.*
*in
dist. 37.*

¹ c. *Episcopus ibidem.* ² c. *Presbyteri dist. 34.* ³ c. *denique dist. 4.* ⁴ *Gl. in verb. supra vires c. illud*
10. q. 3. ⁵ c. *ad om. dist. 5.*

Concerning the Title and the

answer might serue, without anie more adde, vnto his whole discourse, which therfore hangeth no otherwise together, than *Scope dissolutus*, or than a rope of sand. yet we will not deale so sparinglie and peremptorie with the man, but will shew vnto him diuers canons, constitutions, and synodals prouinciall, neither Contrarie nor repugnant to the lawes, nor to the damage or hurt of hir Maiesties prerogatiue roiall; which hauing not by the customes of this realme bene vled, and executed, he himself being better aduised, will not say to be in force of law, or now necessarie to be put in vse or practise. And although the generall word of Constitutions, put downe in the act may seeme to extend vnto constitutions made by christian emperours, for ecclesiasticall persons and matters, as the author seemeth to thinke, whereof sundrie to this purpose might be brought: yet because it is put after Canons, whereof (sauiug some canons for matter of faith agreed on before, by certaine generall counsels) there were but few set out at that tyme: I doe coniecture none other constitutions to be ment thereby, but such Prouinciall, as were gathered together by Lindewood, or Nationall, as were framed by Outho and Octobonus: and therefore I will not wearie the reader with such superfluous allegations. First therefore to begin with the canons collected by Gratian, it will easilie appeare that there be verie manie such which are neither repugnant to any lawes that I do know, or haue heard reported for lawes within this land, nor hurtfull anie way to hir Maiesties roiall prerogatiue, which yet are by generall custome thereof, so long disused, that no man can iustlie say they are in force still, amongst vs; which for breuitie sake, I will set downe in as short a summarie as I can find them gathered. ^a That rules of physike are to be holden as contrarie to a diuine state, which in some case forbid fasting. ^b That none are to confirme, or to be confirmed, but fasting. ^c That baptisme must be conferred with three dippings into the water. ^d That a man may not fast on the Thursday. ^e That on the Lords day, or in the feast of whitson-tide, in praiering we ought not to kneele. ^f That a church may not be consecrated to holie assemblies, wherein a pagan or heathen hath bene buried. ^g That publike and solempne penance may not twise be inflicted. ^h That women may not sue their husbands for adulterie. ⁱ That he is an abbetor of filthinesse, that putteth not away his aduultresse wife. ^k That a man and a wife may not promise for a child in baptisme together. ^l That if a man by any casualtie should offer his owne child to the Bishop to be confirmed, he ought to be separated from his wife. ^m That a man may lawfullie put away his wife, which seeketh to persuade him to that which is euill. ⁿ That she which maketh an image, and will not repent, is to be put away by the husband. ^o That it is a kind of idolatrie to search after the course of the starres. ^p That heretikes after their death are to be excommunicated. ^q That without great necessitie, it is not lawfull

Page 16.

- ^a De confirm. dist. 5 c. contr.
- ^b Ibid. c. vi. ieiun. c. vi. episc.
- ^c c. in Synodo. dist. 4. de Baptismo.
- ^d c. peruenit dist. 3. de feriis.
- ^e c. quoniam ibidem.
- ^f c. ecclesiam 1. dist. 1. de feriis.
- ^g Dist. 3. de penit. per totum.
- ^h 32. q. 1. c. apud S. crimen.
- ⁱ 32. q. 1. c. si cur.
- ^k 30. q. 3. c. quod autem.
- ^l 30. q. 1. c. peruenit.
- ^m 28. q. 1. c. idololat.
- ⁿ Ibid. e. non solum.
- ^o 26. q. 2. sed & illud.
- ^p 24. q. 2. c. ult.
- ^q 23. q. 8. c. si nulla.

Epistle of the Booke.

lawfull to go to warre in Lent time. ¹ That with the enemies to religion, we are bound to wage warre. ² That a man ought to be fasting when he taketh an oth. ³ That he shall neuer during life be admitted to communicate, which hath suborned perurie. ⁴ That he may be accounted to haue forsworne himselfe, that goeth about to do otherwise than he hath promised. ⁵ That a woman may not be admitted to accuse a priest, or to beare witnesse against him. ⁶ That to publike instruments, priests are not to be called to beare witnesse. ⁷ That a Bishop, though he be bzged, ought not to go to law about temporall matters. ⁸ That a Bishop dieng intestate, the church succeedeth wholie into all his goods. ⁹ That of those things which priests do buy, they should make the writings in the churches name. ¹⁰ That a Bishop hauing no heire, ought to make the church his heire. ¹¹ That all clearkes are to liue together in a communite. ¹² That he which would appeale from a Bishop, must sie to a synod. ¹³ That a priest, which is deposed by a Bishop, must complaine thereof to the next Bishops. ¹⁴ That the Bishop, ought pearlie to visit his diocesse. ¹⁵ That he ought to haue the halfe of all oblations. ¹⁶ That none should be admitted to accuse or testifie against a priest, which either was not or could not be a priest himselfe. ¹⁷ That the shepe ought not to accuse the shepheard, except he swarue from the true faith. ¹⁸ That lay men may not accuse clergie men, nor clergie men those of the laitie. ¹⁹ That a Bishop can not be condemned, but with seuentie and two witnesse. ²⁰ That an oth is not to bee exacted of priests. ²¹ That he which is able to sustaine himselfe of his owne charges, should receiue no stipend of the church. ²² That archdeacons should not exercise iurisdiction ouer priests. ²³ That there ought to be seuen deacons in euerie citie. ²⁴ That a priest which hath lost his eye, is not to receiue any dueties. ²⁵ That such as haue serued in warres, or haue sued in courts after they were baptized, may not be ordeined. ²⁶ That it is not lawfull for a clearke to do publike and solemne penance, nor for him that hath such penance to be performed, to be ordeined. ²⁷ That it is not lawfull to eat, or to haue a bed set in a place that is dedicated to God. ²⁸ That Bishops are to be reprehended which traine by their chldren in humane learning. ²⁹ That Bishops may not read booke compiled by heathen men. ³⁰ That priests may not be at marriage feasts. ³¹ That those which be in clericali orders, should begin to fast at *Quinquagesima*. ³² That all clerks should abstaine from flesh, seuen whole weekes befoze Easter. ³³ That a Bishop when he visiteth, must haue nothing to drinke but milke. And that a husband ought not to keepe companie with his wife, till the child that was borne betwixt them were weaned, with diuers other not vnlike to these. In like maner there be diuers other parts of the canon law, which neither being repugnant to any lawes in

¹ c. Episcopus ibidem. ² c. Presbyteri dist. 34. ³ c. denique dist. 4. ⁴ Gl. in verb. supra vires c. illud 10. q. 3. ⁵ c. ad eum dist. 5.

⁶ 23. q. 4. c. si-
cut.
⁷ 22. q. 3. c. ho-
nestum.
⁸ Ibid. c. si quis
conuictum.
⁹ 22. q. 3. c. in
dolo.
¹⁰ 15. q. 3. c.
tertio.
¹¹ 14. q. 2. c.
quauquam.
¹² 14. q. 1. c.
Episcopus.
¹³ 12. q. 5. c. ule.
¹⁴ 12. q. 4. c.
presbyter.
¹⁵ 12. q. 2. c. E-
piscopus.
¹⁶ 12. q. 1. c. di-
lect.
¹⁷ 11. q. 3. c.
Clericus.
¹⁸ 11. q. 3. c. si
Episcopus.
¹⁹ 1. q. 1. c. de-
creta. ²⁰ Ibidem. c. an-
tiquos.
²¹ 12. q. 7. c. ipsi.
²² Ibid. c. vices.
²³ Ibid. c. siue.
²⁴ 2. q. 5. c. mil-
lam.
²⁵ 3. q. 4. c. sa-
cramentum.
²⁶ 1. q. 2. c. Cle-
ricos.
²⁷ c. de summe
dist. 94.
²⁸ c. Diaconi.
dist. 97.
²⁹ c. si euan-
gelia. dist. 55.
³⁰ c. aliquantus.
dist. 51.
³¹ c. illud. d. 5.
50.
³² c. non opor-
tet dist. 42.
³³ c. elegant.
dist. 37.

Concerning the Title and the

in this land, nor hurtfull to hir Maesties prerogative: yet being disused, and therefore repugnant to the customes of the realme, do stand in no force with vs at this day.

*a e. cum offes
e. c. relatum
extra de testa-
mentis.*

As where it is required to the testification of euery testament, euen in that which is *Ad pias causas*, that the minister of the parish be present, beside two other sufficient witnesles. Whereas by generall custome among vs receiued, and as it is testified by diuers lawyers reports hereupon, two good witnesles are sufficient. Also if a man make his sonne his heire, or (as we equiuallentlie to that do now use and speake) his vniuersall and sole executor, and do charge him to paie and make ouer to some other his whole goods, dues, and credits, by the canon law he ^b may retaine *Legitimam in e nature debitam*, his childs part, which by the ciuill law *Falcidia* & *Trebellianica* is a fourth part, but by the canon law a third part: and also the fourth part of the remnant *per Trebellianicam*, ^c especiallie if the said charge were to be performed after some certaine day or condition hapning: yet by the custome in England which hath preuailed, he shall in this case without either of these deductions, so long as there is *Affectus* *enle* *les mains des biens* & *chastels paternelles*, restore and pay according to the deuise comprised in the will. ^d Againe, if a single man commit fornication with a single woman not espoused to any, he is to endow hir with a dowrie in stead of hir father, & to take hir to wife, according to the like law of God in the 22. of Exod. And the canon addeth, that if he refuse to marie hir, he shall besides endowing of hir, be also corporallie chastised: yet we haue no such necessarie exacting of a dowrie in use amongst vs. ^e Moreover, by the canon law euery sinne is reputed to make a man infamous, which is not obserued in England. ^f Likewise the canons do forbid, any thing belonging to the church to be sold any whit aboue the iust value, which is not required nor looked vnto in this realme. ^g Furthermore, though both by the ciuill law and practise in this land, the heire or executor is not tied to paie more than the inuentarie (trulie made) will amount vnto: yet the ^h canon law seemeth not so to distinguish, but to bind the heire or executor, to whome any part of the deads goods do come, to a full satisfaction. And the canon law seemeth wholie to ⁱ condemne by the sword *Torneamenta*, all iustling, running at tilt, tourney, or such like commendable exercise of the bodie used in England. yea, and also where prohibiteth euen our notable old renowned defense of archerie, to be used against any christians. ^k Moreover, the canons (cleare contrarie to the practise in manie places of England) do forbid all bastards to beare any office of credit or charge. And I thinke that it is not ordinarilie in practise in this realme, if a cleargie man being a patrone, do present an vnworthe clearke to a benefice, that thereby the right of collating should bee deuolued to the superiour, which yet the ^l canons do appoint against him as a punishment. Moreover, though the canon ^m law be directlie to the contrarie, yet it is a gene-
ral

*b c. Raimundus
e. c. Raimundus
extra de testa-
mentis.
c. L. Papinianus
si quis
impubes ff. de
in off. testam.
tunc gl. in S.
meminisse ibid.
d. e. 2. Ext. de
adulterijs.
e. De consecrat.
dist. 3. c. cele-
bratorem. & 6.
q. 1. c. omnes.
e. c. illi qui.
f. c. hoc iur. 13.
q. 2.
g. L. scimus. C.
de iure delibe-
randi. & L. he-
reditarijs C. de
hered. acti.
h. c. in literis
Ext. de rapt.
16. q. 6. c. si.
Episcoporum.
i. c. 1. de torne-
amentis c. vni-
co de sagis.
k. c. 1. & 2.
dist. 6.
l. c. cum nobis
Ext. de off.
ordinarij & c.
cum in cunctis
Ext. de electi-
one.
m. c. cum in off.
Ext. de testa-
mentis.*

Epistle of the Booke.

raill custome through England, and so testified to be by the ^a glosse in
Lindewood, that a beneficed person may fratie declare his last will
and testament of all such mouable goods as he is possessed of, being
gotten in respect of the church. And againe, euen against our owne
prouinciall constitutions, custome in some part hath verie farre pre-
uailed. For the constitution prouinciall is so farre from taking away
from the executors the emblements sowne vpon the glebe-land by
the incumbent afore his death: that if he doe ^o lue till the feast of the
annunciation of the blessed virgin, all the fruits which for the other
part of the yeare are to be receiued, shall be impleied to the payment
of his debts, and fulfilling of his legacies and deuises: which now is
generallic growne out of vse, and the executors of such a beneficed
person shall haue no more fruits, what time soener the incumbent
shall die, but that which the daie of his death (whether it were haie,
coyne, or fruit) was leuered from the free hold, which course I haue
read to haue bene also obserued, euen before the statute of 28. H. 8.
Besides it ^p appeareth by diuers booke at the common law, that if
a beneficed person doe die before the conception of our ladie (as they
terme it) being the 8. of December, the emblements and coyne which
he had sowne before vpon his glebe-land, are due to his successor, and
not to his executor. There is another Constitution also out of vse,
as being such, which custome hath verie long preuailed against: that
in a cause of matrimonie, if sentence were giuen for the matrimonie,
the advocate which was of counsell against the matrimonie, should
be suspended from practise, by the space of one whole yeare after-
wards. And againe, there was a prouinciall ⁱ constitution made,
being neither repugnant to the lawes of this land, nor preiudiciall
to hir Maiesties roiall prerogatiue, for certaine kind of apparell, not
to be woorne by any cleargie man: which I may not doubt but our
Abstractor and all his complices will easilie grant to be past date, as
being forwozne by contrarie custome. Like as there be some other al-
so, which though I doe not doubt but that they obtaine still the force
of law amongst vs, yet these men will willingly peld to be suffici-
ent, that they haue lost their sting, euen by custome it selfe. Albeit the
Abstractor left it forth of the ^ommo of his maine syllogisme, as
though it were not able to impeach the validitie of a law once esta-
blished. For a Constitution prouinciall deciderh, that hee which
denieth that a synod assembled may not make such lawes, which
may inhibit a preacher from preaching till he be tried, is to bee ex-
communicated. which is to be vnderstood of such lawes as were es-
tablished in conuocation before any act of parliament was set downe
to abridge that libertie. Againe, another constitution hath decreed,
that Where either the clergie or the people of anie place, haue ad-
mitted anie man to preach which is not licenced, there that church
should be interdicted. And another hath ⁱ also determined, that If a
preacher before the clergie shall preach of the faults of the laities,

^a Gl. in verb.
legat. c. statut.
Prouin. constit.
de consuetud.

^o Prou. Con-
stitutio. De
consuetudina
c. nullus
Rector.

^p 34. H. 6. 38.
3. H. 6. 49.
Br. Encum-
bens & Gleb.

ⁱ Prou. Con-
stit. de visa &
beneficiate cle-
ricorum. c. ex-
terior.

ⁱ Prou. Con-
stit. de here-
ticis. c. Reue-
rendissime.

ⁱ Ibid. m.

ⁱ Ibidem.

Concerning the Title and the, &c.

or before the people shall preach of enormities of the clergie, he shall be punished by the Ordinarie of the place, according to the qualitie of his offense. These few thus alledged, being such as for the present time I could hit vpon, I thought good to touch as a supplurage for the more manifest refelling of the craftie defectiue *Myrrour* of his chiefe argument, which if he had dealt plainlie in, and had laid forth the *Medium* thereof fullie, as it is in the act of parlement, he could not but haue foreseene, that he should haue had more adu, to haue proued all those Canons, which he alledgeth to Haue bene vsed and executed before the making of the said act, in such sort as he would bige: than he had to gather so much stuffe together in view of the simple, bearing in truth to so slender purpose, in the iudgement euen of all such as be but euen meane-
lie skiled in those
lawes.





To the first treatise of the Abstract,
That a learned ministerie is com-
manded by lawe.

*A Preamble before the exami-
nation of his proofes.*



It seemeth to mee that the principall scope of the authour of this booke was, couertlie to bring the gouernours and gouernement ecclesiasticall of this church of England, into contempt; hatred and obloquie, speciallie with preiudicate and vntwarie readers of it; as though the said gouernours were either grossely ignorant, or wilfull breakers of lawes, canons, &c, in force, touched in this booke; yet in other points readie enough to put in vze other Canons, Constitutions and Synodals prouinciall of like nature, which serue better for their purpose. If this were not his drift and marke wher at he aimed, he would not haue set the article of A learned ministerie by lawe commanded, in the balward, and therein haue spent almost halfe his booke: whereby belike hee thought simple or affectionate readers would easilie be led to imagine, that the chiefe gouernours in our church matters, doe hold some opinion to the contrarie thereof, tending to the vpholding of ignorance in ministers. Wherin let the wise consider, what iniurie & indignitie (vnder hand) he hath offered to this church, to faine that to be holden & maintained, which is not: and by ioining heerin with the com-

B. j.

mon

A stande-
rous insi-
nuation.

Pag.39.

Pag.16.

2.Tim.3,16.

Pag.71.

mon enemies the papists, and strengthening their hands, who also, in their seditious booke, doe harpe much vpon the ignorance and dissolutenesse of our clergie. And yet (howsoever some Bishops peradventure inconsiderate lie hêretofore haue laid their hands vpon some verie ignorant ministers, which thing, neither other godlie men in them, nor they in themselues doe afterward like well of) his owne conscience (I dare saie) doth witnesse vnto him, that this church, and the godlie gouernors therein, doe disallowe an ignorant ministerie, & doe with all their harts wish it were possible (*Rebus sic stantibus*) that euerie parish had a sufficient able preacher. And therefore his thicke allegations of canon law as to this purpose, are (as he speaketh of the said law else-where) Needles, bootlesse, and footlesse too: brought in to no purpose, but to puffe vp, and to make his booke swell, and withall to giue him a plaine song or ground, to make his scolding faburden vpon. But seeing throughout his discourse vpon the said first article, he exacteth of euerie minister more than *Mediocre[m] & competentem scientiam, immo eminentem*, and as it seemeth such as S. Paule propoundeth to euerie minister as a perfect *Idæa*, that is requisite in him: which is, that he be able to teach sound doctrine, to comfort, to correct and instruct, and to reuince any error; and thinketh Grammarians and Poets, Philosophers and Rhetoricians, though they haue spent many yeeres in the vniuersities, not fit straight-waies to be made Physicians of soules: insinuating withall hêreby, that the Bishops that haue ordered or tollerated any not so perfectlie qualified, to haue neglected their dutie, &c: In these respects (I saie) it had beene more conuenient for him, to haue tendered another issue, vpon some points in practise of our church, rather than thus to haue sought with his own shadowe, *Et in re minime dubia testibus vti non necessarijs*, in seeking to proue that which no man denieth to be most requisite, if it could be brought to passe. For the issue ought to

to haue beene to this or like effect: Whether it be simplie
vnlawfull, that one should be admitted to minister the
sacraments, which is not sufficientlie enabled *ὁρθοτομεῖν*,
that is, to denide the word of *Q D D* aright, and is also
διδασκτικὸς καὶ ἐλεγκτικὸς, able to teach the truth and
conuince error, and to correct sinne, and instruct to ver-
tue and good life, and to comfort the weake. Or else,
whether it be expedient, that all the parishes in England
either not able to susteine such a learned minister, or for
the scarcitie of such so well qualified, not able to procure
one, should be destitute of publike praier, and admini-
stration of sacraments, till such a preacher be procured
vnto them, or no?

But seeing it was not for his aduantage to speake to
purpose, being an easie matter to carrie away the prise,
where no man striueth; it were a sufficient answer to all
his first article, to yeeld: that there ought to be established
(as nere as possiblie may be) a learned ministerie euerie
where in the church. Yet will it not be amisse a little to
looke into his clerke like proofes hereof, and by the way to
point at the violent and furious affections, wherevnto
the sharpenesse of his humour, against particulars, doth
lead him: and also to touch diuers other absurd positions
and paradores, vpon occasion of this treatise, by him
here and there interlarded.

1. Section. Pag.3, & 4.



An ancient Father saith, that
the friends of Iob did handle an
euill cause well and cunninglie,
but Iob hauing a god cause, did
handle it but slenderly. In like ma-
ner it fareth with this author in
this section, and some other parts
of this first article: so that except I saw where matter
wanteth, that he furnisbeth out his talke with bitter and

B.ij.

earnest

1

Rom.15,4.

2.Tim.3,16.

1.Tim.3,26.

Titus.1,9.

2

earnest words, a man would iudge that he dooth but *Præuaticari*, as the ciuill law calleth it : when a man seeming seriouſlie to deale againſt a cauſe, omitteth purpoſelie, what to beſt purpoſe might be ſaid, and laieth bootie, to betraie the goodneſſe of the cauſe. For where he ſhould proue, that the canons doe require ſuch learning in him that is to be made a miniſter, as hee painteth out in diuers parts of this treatiſe : in ſtead hereof, he choſeth to ſet in the firſt ranke out of the Decretall *De electione*, the chapter *Nihil eſt*, in deed to no purpoſe. For the ſaid chapter (as he himſelfe well perceiued) and therefore by preoccupation ſought to answer (*ſed quàm feliciter?*) perſeuereth onlie to dignities electiue, whoſe elections to the ſaid dignities, are to be confirmed by their ſuperiours, whether by Biſhops, Abbats, Prouincials of their order, or other whoſoeuer. Now ſuch ſo to be elected, are for the moſt part before their elections, in ſome clericaliſt orders, *or elſe there were no colour at all, according to later canons, for the ſuperiour to confirme them, the election of their perſon being otherwiſe to all intents meerelie void. But he ſaith, that What election and confirmation is to ſuperior functions; that is, preſentation and institution for enioieng of inferior benefices. Wherein he diſputeth not *Ad idem* : for he knoweth that one, who is a miniſter alreadie, and of competent gifts to answer in Latine to the articles of religion, agreed vpon, &c: can not in this Realme vpon preſentation be hindered from institution by the Biſhop, but he may recouer the benefice by *Quare impedit* at the common law; and therefore this canon can not be in force, or be extended to puniſh the Biſhop, for instituting ſuch a one, whom he cannot by the lawes of the land reſuſe. But peraduenture (he will ſaie) by preſentation & institution he ment the firſt ordering of him to the miniſterie, which is meer voluntarie in the Biſhop. Yet heerein, as he ſpeaketh impropertie, ſo dooth it impugne the reſt of this mans platforme : for hee would not

A lawe interpreted.

*Glin c. offici-
cij in ver. in-
contin. Ext.
de electione,
& electi po-
teſtate.

A contrari-
etie to him-
ſelfe.

not haue any absolute orders giuen, but when some place is void, and that with election of the people. And if to bring a Bishop within danger of the penaltie of this canon, he will haue him to haue something to do in this action of calling to the ministerie, which shall be arbitrarie for him to do, or not to do; as to laie his hands on the elected: then are he and his clients at another mischæfe by leauing it still in the Bishops power to reiect their new elect. He inforceeth also, that howsoeuer the words may lead a man, to thinke this canon to be ment for superiour and electiue prelacies onelie; yet the reason of the decree fighting also as stronglie for ministers, ought to make the law to be accounted alike in both. Which being grounded vpon this rule, *Per eadem ratio idem ius*, I must put him in minde that the said rule * holdeth not, where the lawe it selfe, notwithstanding some generall reason thereof be alike, doth otherwise in another place dispose. *Quia non ex regula ius, sed ex iure regula sumitur.* And so it doth in this matter, as may appere in the same chapter *Nihil est*, where a little after the words by him alledged not this punishment of suspension and bereauing of power to confirme the next successors election, is inflicted for that Bishop which shall prefer to holy orders or ecclesiasticall benefices, such as cannot worthilie fulfill the office to them committed, but the penaltie in that case by canons provided. Which words though the author thought good not to alledge; because they make no mention of any insufficiencie of knowledge, and would be racked to no further office than to an abilitie of saieng masse, wherein the chæfe and as it were the onlie mysterie of popish priestcraft consisted: yet in the Maior of his second syllogisme, where in a generalitie Of worthy executing his office, they seemed to speake more aptlie to his purpose, he was content to vse them, though they do indeed quite ouerthrow his answer of the identitie of reason, in both the cases. For how can it be intended, that

* L. *solus* 61.
in fine ff. de
iudicijs. l. illi-
citas. 6. § qui
vniuersas ff.
de officio pro-
fidis.
* L. 1. a ff. de
reg. iuris.

one and the selfe-same thing is by those words ment and disposed of, where the law-giuer (as in this place) prouided a diuersitie of punishment in the cases of confirming a mans election: for knowledge insufficient &c. from the penaltie of such a Bishop, which should order a man, that could not erecute worthilie the office committed to him: For the penaltie inflicted else-where by the canons vpon the Bishop, which shall prefer men vtterlie vnworthie, to holie orders, ecclesiasticall preferments, or benefices (of which the* glosse sheweth this decretall to be ment in that behalfe, where it saith; If they will escape the penaltie of the canons) is to be* suspended from giuing of orders, or collating of benefices. And to make it moze cleare, that so much of this decretall, as our autho^r alledgeth, is onlie to be vnderstood of superio^r prelacies and dignities, and not to inferio^r benefices, the glosse obiecteth and resolueth thus; This seemeth contrarie (saith the glosse) to C. graue *infra de præbendis*, bicause there, he that preferreth vnworthie men, is not punished till he haue been twise or thrise rebuked & admonished of it, but heere he is presentlie punished without anie admonition: also heere, those that are promoted, are remooued, but there they are not: it is to be answered, that heere he speaketh of those that are promoted to dignities and government of soules, and for that they doo more deepelie offend, they are more greuouslie punished, euen without any admonition: but in the other place he speaketh of meane benefices, in which such great ripenes is not required. Which to be no greater or erater a matter than to be able to say masse, doth appere by that which* Panormirane allegeth out of Bartol. Neither can the generall acception in law of this word (*Prelatus*) sometimes applied to an inferio^r minister, helpe this pittifull p^rofe of his. It is a Fallacie to gather, bicause it sometimes so signifieth, that therefore in this place it should so be taken: yet there is no such place as he quoteth heere out of C. *sua. de clerico agrotante*.

But

*Glibid. in
verbo suspendi-
dum.

*C. cum in
cunctis Ext.
de electione,
& c. graue
Ext. de præ-
bendis.

*Panorm. in
c. vlt. de estat.
& qualitat. in
fine.
A fallacie
κατά τὸ πᾶν ὡς
ἀέθως.

But if we should gratifie him so much, as to suffer this canon to go for good payment in this behalfe: yet if it be said, that most of the ministers of this church, at whom he shotteth this bolt, are not of that insufficiencie of knowledge, or vnaptnesse to execute their office, that is here ment to be condemned: he were still new to begin again, to proue that this canon requireth also such a sufficiencie in all ministers, whereby they should be perfectlie well able to preach the word. For euerie one that hath not a speciall gift to preach, is not straightwaie to be accounted (according to this canon) a man insufficient for knowledge, or not able to execute his office worthilie. In the former syllogisme of this section, if by the word Hurtfull he vnderstand not onelie that, which *Per se* is hurtfull, but that also which is so *Per accidens*, and vpon some occasion may endamage the church of God: then his Maior is to be denied as untrue. For so, euen excellent and singular learning happening into such one as Arrius was, may do great harme in the church. And likewise in both the assumpts of his syllogismes he notably plaieeth vpon the petition of the principle, taking that as granted, which is vtterlie to be denied:

A law for-
ged.

A fallacie
A petitione
principij.

2. Section. Pag. 4, 5.



Al that is said in this section, being in effect nothing else but that ministers, being called physicians of soules, ought to be able to applie a spirituall medicine; as it proueth not pregnantly the scope of the issue, to wit; that euery minister ought of necessitie to be of such abilitie to preach, as this treatise requireth: so dooth it not limit that the said physician of the soule, which in sicknesse is to be sent for, must needes be the pastor of that parish, more than that the physician for the bodie (of whom also it speaketh) must be of the
Witt. said

A canon
racked.

said place necessarilie. And trulie, I must néeds confesse that he is a verie simple and ignozant minister, of what parish soeuer, that is not able (howsoever he be to preach) yet to applie some spirituall medicine to the soule of a sicke man for his consolation: although in truth by the spirituall medicines is not here ment any inward comfort by faith in Christ, in those daies least respected, but the shruing to a priest, the housling, and aneeling of the partie diseased.

3. Section. Pag. 5, 6, 7, & 8.



A canon
wrested by
the authoꝝ.

Under my former protestation, and the benefit thereof alwaies to me being reserued, that I fauour not, nor seeke not to establishe ignorance in the ministerie: I doe saie that this which the authoꝝ here bringeth out of the Chapter, *Cum sit ars Ext. de etate, qualitat. &c.* for to proue that ministers ought to be lerned, vpon colour of those words, For if they shall henceforth presume to ordeine such as are vnskilfull and ignorant, dooth not any waie directlie relieue him. For that decretall spebeth of such as Being to be promoted to be priests, are by the Bishops themselues, or other fit men, to be instructed, &c: not of or touching diuine offices & ecclesiasticall sacraments, but how & in what maner they may aright celebrate them, that is to saie, how to turne their pie, portesse, and missall, & to vse gallie the infinite ceremonies of the masse, hard to be learned without a scholmaister, which *Vina voce* might open the same vnto them. For else we must néeds here vpon affirme, if anie such instruction should be required at the Bishop hands, or such as he should appoint, as the authoꝝ here woulde inforce: that the Bishop must read or procure to be read to such as he would afterwards ordeine to be ministers, a continuall set lecture of all good learning, but speciallie of

of diuinitie. Also it is spoken of such as are to be ordeined priests, which hauing gone thorough all the lesser orders, and Subdeaconship and Deaconship, are not to be intended then, newlie to be instructed by the Bishop in so short a time, euen a little before their priesting in all the doctrine of diuine offices and ecclesiasticall sacraments, which thing also the word *Diuina officia* for the most part in these latter canons vsed for nothing but the masse, with the appurtenances, doth sufficientlie make manifest vnto vs; neither can those generall words of Vnskilfull and ignorant be drawne further than to such things, wherein the disposition and bodie of that law is before bestowed. Yet will I not denie, but that hence we may profitablie gather, how behouefull it is for vs to haue as great a care to the sufficiencie of such as are to be called to be the ministers of the gospell, as they had for the instructing of their idolatrous priests, in their apish gesticulations at the masse. And to no other end serueth that which is brought out of the *Cap. tales, 23. Dist.* in the discourse vpon the said section. But of all other, that his common place of the basenes of manie meane things in respect of a few verie good, pulled out of the [Code and Nouelles,] but borrowed of the glosse vpon this Decretall; I maruell that he would bring it for the enlarging of this particularitie which he hath here in hand. The other allegation out of the *15. Dist. and Constit.* Otho. *quam ad venerabiles*, toucheth wholie the conuersation and not the learning and knowledge of the minister, and therefore is besides his purpose. Yet neuerthelesse there is no such canon to be found as he quoteth: and the constitution legatiue of Otho. *quid ad venerabiles*, speaketh onlie of Archbishops & Bishops, and not of inferiour ministers, where vpon our author entreateth: and therefore it is to be taken as a witnesse suborned, and by him taught to giue euidence in a matter wherein he hath nothing in deed to depose. Where vpon, because (all this notwithstanding)

Impertinent allegations.

False and wrested allegations.

ding) he taketh occasion to enter into a verie bitter, and (I trust) a slanderous accusation against the most of our ministerie, for euill example, by their vngodlinesse, dishonestie, and dissolutenes of behaviour, no other wise but in a generalitie, and therefore not possible to be answered but by deniall; I must wholie remit the same to him, who best knoweth, whether herein he be an vniust accuser of the most of his brethren, and of this church wherein he liueth. And I would to God that all they, whom thus he inueigheth against, were as cleare from those faults, as I am assured some others, who are so readie to spie a mote in other mens eies, and pretend greater zeale and sinceritie than ordinarie, are farre off from true godlinesse, mortification and charitie.

4. Section. Pag. 8, 9.



These three allegations out of the Authentikes, Digests, and glosse of the *Constit.* of Otho. not so much as once naming the wordes of learning, knowledge, or anie such like, being brought in but to make a number, without anie derogati-

on to the authors great reading, might well haue bene spared: so the other five allegations of this section tending hitherto, that knowledge ought to be in ministers, that they are maisters, and ought to teach others; because they speake not to the point of the issue, may well be put from the barre. For his purpose is to proue, that none deserueth to be called a minister or pastor, which is not able to gouerne, to exhort, to admonish, to rebuke and comfort his flocke: yea, and that (as it seemeth by himselfe) after a perfect and requisite sort. Now, seeing knowledge and abilitie to teach, is in diuerse measures and degrees, & may be verified (as Logicians speake) *secundum magis & minus*; it may well be, that a minister is

in some measure learned, hath knowledge, and is able to teach, and to deale in these duties, which yet hath not aspired to the height of perfection, required as an Idæa, rather to be propounded to be followed, than of anie one of his owne Rabbines, or anie other hitherto attained unto. But to put the matter out of doubt, that no such knowledge to preach, as our author would inforce, is here required; the glosse vpon his first allegation in this section, referring vs to the *C. qua ipsi, Dist. 38.* doth plainelie shew, that it is but the skill in the missall, the antiphonarie, the booke of the forme of baptizing, the kalendar, the rules for penance, and such like, which is required to make him a skilfull priest, and a seer or guide. And therefore in the Chapter *sedulo* in the same distinction, it is provided, that scholars, and those who are learned, are not to mocke at the prelates and ministers of the church, when they heare them vse *Barbarismes* and *Solæcismes* in their prayers, and to pronounce confusedlie words which they doe not vnderstand: where the prelates also and ministers are in that respect excused. Wherevpon the * glosse gathereth, that a man for his ignorance is not to be deposed: ** Gl. ibidem in verbo intelligere.* yet I cannot but signifie that his second, fourth, and sixth allegations are left without quotations, his third is not alledged as it lieth in the text, and his last being spoken onelie of a Bishops election, is by him racked out, to *Corrupt dealing in allegations.* serue for euerie ministers ordination.

5. Section. Pag. I o, II.



In his decretall *Ne pro defectu*, brought in besides the principall matter, as a corollarie deduced thereof, though the reason and preamble of it, which is, Least the wolfe destroye the flock, doe reach vnto all flockes: yet in the bodie of it no mention is made of inferiour churches within any time after

* C. cum
propter. d.
C. cum de-
cet. d.

after avoidance to be furnished, but of cathedrall and regular churches to be within thre moneths supplied & gaine, and therefore will not serue his turne (as he desireth) to laie anie blame vpon Bishops, nor vpon anie other in this realme; except in the pride of his heart he ment to teach some, (whom in all humilitie and submittion he ought rather to reuerence & obeie) what speed is to be vsed in furnishing cathedrall churches being void. The Decretall *Quoniam Ext. de iure patronatus*, which authoriseth the Bishop to collate, if the controuersie of patronage be not within foure moneths (where the patrone is a laie man) after the voidance determined, doth giue an euident example of that which I said in the beginning, that canons neither repugnant to the lawes, nor hurtfull to the prerogatiue royall, yet being disused before the making of the Act 25. H. 8. Cap. 19. and therefore repugnant to the customes of this realme, are not by the said Act established to remaine in force. For else, whie should both patrones of the Clergie and of the Laitie of this realme, contrarie to this canon, haue fire moneths to present in, before lapse can accrewe? All these words, Able to go in and out before the people, to guide them, to teach and to instruct them, are the words of the author, and not of the Decretall, cunninglie by him wouen with the other by waie of paraphrase: which I doe therefore obserue, least the reader should doe the author that wrong, as either to thinke the places he bringeth to be thus pregnant for his purpose, or that the canon law had that elegant hebraisme of Going in and out before the people.

And here, vpon occasion of this deepe point of law deciphered, that Benefices are not to be left destitute about fixe moneths, the author leapeth into a fierce Phillipian against Bishops, for Suffering manie thousand flocks to want shepheards by the space of almost xxvj. yeares, snatching vp by the waie, that they who were Bishops in

the time of darkenesse, did more carefullic provide for
 such as they imagined to be Særs, than at this time is
 done by our Bishops. What sufficiencie was in priests,
 in time of darkenesse and poperie, the thing it selfe spea-
 keth, and the world can iudge. But this man (as it see-
 meth) careth not whome he overloades with commenda-
 tions, so he may debase those whome he would breake
 his teene of. And to this end is that his speech, where ha-
 ving said that The pretended gouvernement and autho-
 ritie exercised ouer the Lords people in the time of darke-
 nesse, was by vsurpation, he doth afterward insinuate,
 that There are some now which challenge the same au-
 thoritic; whereas it is well and notoꝛiouslie knowne, no
 authoritie, either ecclesiasticall or ciuill, to be exercised in
 his realme, vnder anie but God & hir Maiestie, & accor-
 ding to hir Highnesse lawes: which if this man account
 vsurpation, he must withall account all that which either
 is, or any in this realme enioieth by the lawes thereof, to
 be in like maner vsurped; and all good men must ac-
 count him in so saieng, no well aduised nor dutifull sub-
 iect. But bicause he saw that his greiuous complaints
 against Bishops, For suffering so manie thousand flocks,
 xvj. yeares almost to want shepheards, would seme
 untrue even to children; seeing that Bishops and Archbi-
 shops doe seldome suffer anie benefices, which they know
 deuolued to their collation by lapse of time, to remaine
 void; and in case anie doe escape them, yet after the space
 of a yeaere be runne, or sooner, (where the Sæes be void)
 they are deuolued to hir Maiesties gift, whence they doe
 not reuert, till they be once by hir Highnesse bestowed.
 Therefore to salue vp this sore, or rather to couer it with
 few figge leaues, *Summe nobis excogitant commentum.* For
 as he saith, that The flocks doe lo long want a shep-
 herd, as they want one able to gouerne them, to exhort
 and admonish them, to rebuke and to comfort them.
 But how doth it lie in the Bishops to haue all ministers
 cast

A stonde-
 rous impli-
 cation of the
 author.

cast in this mould? Peraduenture he will saie, they should not haue instituted anie but such. Yet he is ignorant, how great so euer the endeouour of the Bishop be to this effect, to hinder such a clerke presented as cannot hold this touch, nor beare this fineness of 24. carats or *negotia*; yet if he can hold weight in the beames of law, he and other patrones will (maugre the Bishop) haue him placed vpon a writ at the common law. If he replie that the Bishop should not then haue made him minister; I reioine, that peraduenture he was not of his making: it may be also he was fit for the cure he was first appointed vnto, though not so fit for some other populous congregation, or troublesome people: and lastly, that if none should be assumed to the ministerie, but such as those especiall endowments: surely all the learned of all professions in England, if they were in the ministerie, would scarce be able thus to supplie one tenth part of the parishes. So that we are come by this meanes to the second issue by me tendered * at the beginning of this course: Whether it be expedient, that parishes should wholie be destitute of publike assemblies for prayers and ministracion of sacraments, rather than to haue a minister not corresponding to this patterne?

* In pag. 3.

His allegation
retorted
against him-
selfe.

But that which he bringeth for the prooue of his parador out of the law which he quoteth, maketh directly against himselfe: for as he in law, for safegard of his bond, may truely be said to haue built a house, which he hath brought it to that passe that it may be inhabited, though he haue not perfected it: so well inough may he be a minister, that in some reasonable measure is endowd with gifts for that calling, though he be not of the perfect sort. As for the other two rules of law, which he bringeth without quotations as maisterlesse bounds; I doubt not well he will deale so ridiculouslie, and plaie so childishly with these generalities, for prooue of this cause so seruilely by him auouched. It might be answered, and truly

on. that it is *Fallax à petitione principij*, to take as granted, that
 a minister made, though farre vnder that sublimitie of
 perfection which he fantasieth, [is not rightlie and dulle]
 called. But in truth that rule which saith, It is all alike, that
 thing be not done at all, or not to be done as it ought,
 is especiallie to be vnderstood where a man is exacliie tied
 to performe some thing in this or that sort, wherein the
 bond in rigor of law is not satisfied, except the precise
 forme and maner of the couenant be obserued. But as
 the physicians doe teach vs, that a man may be trulie said
 to be in health, though he haue not that most exact tempe-
 rature of qualities, in which nothing is superfluous nor
 wanting, because he is *In latitudine sanitatis*: euen so, be-
 cause the sufficiencie required in a minister, consisteth not
 in a point of perfection, where no degree of more or lesse
 is admitted, but hath his latitude (if I may so terme it) a
 man may well inough *ἐν πλάτει* deserue the name of a
 sufficient minister, which dooth not attaine to the highest
 degree of comparison. So there is a rule, that it is in ef-
 fect all one, not to be, and not to appeare to be. Which
 though in a iudge, who must followe *Allegata & probata*,
 haue his place; yet to other intents it cannot be said
 that a thing is not at all, because it appeareth not. As to
 the other rule which he bringeth, that [he is not said to
 paie which paieth lesse than he ought] euerie child know-
 eth, that though it be no full satisfaction; yet if the credito-
 r demand the whole summe, hauing receiued part, *Dabi-*
tur aduersus eum exceptio de dolo. And here in England, if
 he obligor accept of part of his monie, it is a barre a-
 gainst him that he cannot sue the forfeiture. And there-
 fore, as it may trulie be said, that a man paieth monie,
 though he paie not all that he ought; so may one well
 be said to be a minister, though he be not so exqui-
 site qualified as might be deuised.

6. Section. Pag. 11, 12.

False quo-
tation with
corruption.



His s. *Pro defectu scientie*, quoted in the margent *Ext. de Præben-*

C. venerabilis, and brought by the author to proue that He which hath vnworthilie taken vpon him the gouernement of anie church, may forthwith forgo and renounce the

same: if it had bene honestlie handled, and had made fullie to his purpose, as he would seeme, he would not haue set vs a worke thus vpon a paire of farriers to seeke it where it was not; or else he would haue noted it amongst other as a fault escaped in printing. But the saying, though fondlie depraued by him, is found *C. nisi ciui-
pridem Ext. de renuntiatione*; and no tidings are of it in the place whither he sendeth vs. The text it selfe hath For the most part a man may desire to giue place for want of knowledge, which in his allegation is altogether omitted, as though it were generall. The text hath *Præsul salu-
briter ei renuntiat*, The Bishop or prelat dooth not amisse to renounce the church to him committed, which he must gouerne in both, that is in spirituall and temporall things. The Abstractor in stead hereof hath: Let it be lawful for him that hath charge to gouerne the church in these things to renounce, &c. omitting wholie the word *Præsul*, bicause he would haue retched it out to haue serued to euerie inferiour minister: being neuertheles sufficientlie belwated by those words, About the charge of temporall things, in which also as in spirituall things, he which is here spoken of, is to gouerne the church, whereas in inferiour benefices there are no temporalties to be gouerned in right of such churches. But the insufficiency of knowledge which here is understood, and the authors plaine dealing herein, is set out sufficientlie in the verie next word following: Neuerthelesse, although

not

notable or eminent knowledge is to be wished for in a pastor, yet competent knowledge in him is also to be borne with; bicause (according to the apostle) Knowledge puffeth vp, but charitie dooth edifie: and therefore the perfection of charitie may supplie that which is vnperfect in knowledge. * Whereby appeareth, that euerie insufficiency of knowledge, yea in a Bishop, much lesse in a minister, is no sufficient ground for him to desire to giue place and to resigne: but such ignorance and want of discretion, as maketh him bitterlie unfit to wield the spirituall and temporal matters of his church. And where the text saith, He may desire to giue place, it ouerthroweth the purpose for which it is by the Abstractor alledged; as though a man might of himselfe forthwith forgo and renounce his charge, whereas indeed he is to desire it at his superiours hands; or else he cannot resigne nor be deuested of his function. And therefore the Maior of his second syllogisme of this section, pag. 12. is not simplie true, as by these lawes here quoted more fullie may appeare.

* C. post translationem d.

* C. d. in fine.
C. dilecti. d.
C. quidam tendendi. d.
C. admonet. d.
C. literas. d.
C. cum venerabilis Ex. de consuetudine.

7. Section. Pag. 12, 13, 14.



It is not denied but that the debilities and infirmities of age may be such, as it should be requisite the superiour to giue such a one vpon his request leaue (loking sufficientlie into the cause) to giue place vnto another more able to execute that function:

and in case he doe not desire the relinquishment of it, then * the law in such cases prouideth, that a coadiutor with some competent portion out of the liuing be assigned vnto him, and not that he should violentlie be thrust out from a right * once growne vnto him, without his owne fault, contrarie to all reason, example, and humanitie. It were to lamentable that men, which either as magistrates or counsellors in the common-wealth, or as faithfull stewards

* Ext. de clerico egrotante, per totum c. quia frater. 7.9.1.

* Reg. sine culpa. de regulis iuris Pontificij.

C. f.

ards

ards in the Lords house, haue by due desert attained dignities and offices during their life, by reason of Gods visitation by sicknesse, or for his blessing of manie yeares and old age, which of it selfe (as physicians saie) is *Quidam morbus*, should as old hounds be vtterlie shaken off to the wide world.

Falsification
of the law.

* *C. nisi cum
pridem S. alia
verò causa
Ext. de re-
munc.*

And where the Bishop mentioned in this canon did desire of the pope, in regard of his age and infirmities, that by his aduise he might place another in his stead: our author plainelie falsifieng the text, tranlateth *Cum nostro consulto*, Without aduise; to the intent he might iustifie, that without licence of his superiour, a Bishop or minister may renounce their function. Yet euerie debilitie of bodie arising of infirmities, or of old age, is not a sufficient cause whie a man either should desire or haue libertie granted to resigne. And * therefore the decretall epistle to the Bishop of Arles saith: There is another cause, for the which a man may desire to be released from the burthen of a Bishops charge, which is weakenes of bodie, arising either of sicknesse or of old age: and yet euerie debilitie is not such, but that onelie, whereby a man is made vnable to execute his pastorall dutie: for if, vpon euerie weakenes of bodie, the office of seruice once taken in hand might be forsaken, in vaine had the apostle confessed, that he did euen glorie in some his infirmities. Seeing that the weakenes of age ought sometime no more to wey with a man, to make him resigne, than that ripenes of behauour (which often accompanieth old men) ought to persuaide with him, to continue in his owne function. For of such (saith the apostle) When I am in weakenes, then am I stronger: for sometimes the weakenes of the bodie dooth increase the valoure of the mind. But now againe, he leaueth the matter of resignation: and for prooue of his principall issue he bringeth two allegations; one out of the common *Extravagants*, and the other out of the *Clementines*: which doe seeme to me to be brought in but to make a number, and culled

culled out without choise, there being much more pre-
 nant places to that purpose, which in his cursozie and desul-
 tozie perusall of these bookes did escape his hands. For
 these doe onelie require, that vnfit persons in knowledge,
 maners, or age, be not preferred to ecclesiasticall livings:
 whereof I would gladlie learne how it could follow, that
 therefore whosoever is not able to preach, and is not en-
 dowed with all those gifts which are in this discourse requi-
 red, is for want of knowledge vnfit: which is his generall
 scope whereat he leuellet. Which knowledge and skill to
 be able to profit the churches where they serue, that it is no
 such exact cunning as he dooth beare vs in hand, hath part-
 lie appeared afoze, and better shall appeare afterward. And
 trulie his choise was verie slender, when he chose the pre-
 amble of that canon, wherein the pope pretendeth, bicause
 he would be sure to haue such chosen, as should both go-
 uerne and profit the church; that therefore he taketh the
 prouision and bestowing of all ecclesiasticall livings into
 his owne hands, which should happen to fall void in the
 court of Rome, or within two daies iorneye of the same.
 The Constitution of Otho. alledged, telleth what kind of
 maister is indeed required; yet without mention of anie
 preaching, nor yet in that strict maner, but that occasions
 may happen, that a man more meanelie qualified, may be
 tolerated in the ministerie. In which respect, the *glosse *
 saith; If the preests should be poore, either by their paren-
 tage, or through the barrennes or wasting of the countrie,
 so that they could not applie their studie, but should be
 driuen otherwise to get their liuing by handie labour, it is
 to be thought, that then they ought with fauour to be tole-
 rated; yet so, that they be something more skilfull than
 lay men, especiallie about the sacrament of the altar, where-
 about they are dailie occupied. Which is the verie case of
 this our church in manie places; the more is the pitie. His
 next allegation out of the same place, he hath both mang-
 led and falsified. For where the Constitution inuetheth

* Gl. in con-
 sist. Otho.
 Sacer ordo.
 verbo: illi-
 seratos.

Falsificatio.

C.ij.

against

"Gl. ibidem
verbo sim-
plex sacerdos.

against those that haue the liuing and roome of priests being not in orders, but more like souldiers than priests, As hauing no care of holie life or learning; this he maketh generall vnto manie besides. And where the text hath *simplex sacerdos*, that is, saith the * glosse, not intituled to the church, but a stipendarie curate: he adding to the text, translateth it, A fillie ignorant priest.

8. Section. Pag. 14, 15.



His Constitution of Ocho. amongst other things forbidding vnlearned men to be ordered ministers, doth not proue euerie one to be vnlearned that is not fit to preach and expound scriptures, which is a point of more competent skill than an ability (as occasion is offered) to exhort to good life, to dehort from vice, or to comfort in aduersitie; though the same cannot to anie purpose be done without some skill and practise in the scriptures. And therfore the author hauing so slenderlie proued that which is his intencion, had the lesse cause hereupon thus to set vp his sethers, and vnrulie and giuing lie to saie, that the canons published 1571. and the aduertisements doe yeeld testimonie, that the Bishops doe proceed first, and inquire afterwards, that they first giue the minister a charge, appointing him to teach, and afterwards send him to the Archdeacons or his Officials court to learne: whereas the said canon (agreed vpon, but not yet (that I can learne) confirmed by authoritie) and the aduertisements alledged, doe onelie charge the Archdeacons and their Substitutes to take an accompt in their visitations of the meaner sort of the clergie, of certeine chapters of the new testament without booke; to the intent it may appeare, both how they profit in scripture, and that thereby they may be the more perfect in the text. Which thing if it should be also performed voluntarilie, as a private

A flauenderous vntruth.

uate exercise, by the best and most learned ministers that we haue; I thinke it might greatlie profit them: and no modest man would interpret it so, that they did but then begin to learne the scriptures, as here is odiously insinuated. It is reported of W. Latymer of reuerend memorie, being accused by his persecutors neuer to haue exercised himselfe in scripture, because they saw some debilities of old age appeare in him, that he should answer, that the baite træs in Clare hall in Cambridge were able (if they could speake) to witnesse with him, that he conued without booke vnder them, all the epistles of S. Paule.

The words of Barthol. are not as our autho^r hath alledged them, but thus; *Qualitas adiecta verbo intelligitur secundum tempus verbi*: and they are brought in by him onelie in waie of obiection against the text, which is contrarie to this rule, as his solution of the said obiection doth plainelie shew. For he saith; It is a sufficient verification of these words [*he dieth intestat*] though a man haue made a will the daie of his death, if vpon anie occasion afterward falling out (as by the birth of a child vnto him after his buriall) the said will and testament be reuersed. So that we see it is not generall, that The qualitie adioined to anie verbe, must be construed according to the tense of the same verbe. The law which he quoteth *ff. de ferijs*, hath no one word giuing anie colour, or sounding anie thing that waie. The other* quoted *ff. de minoribus*, is by him wholly altered from that which the law it selfe setteth downe: Prooße must be made (saith the law) of the age of him, which alledged he is aboue xxv. yeares old, by examination of the cause: because such prooße will preiudice and worke against the reuerfall of acts of the said yong man as executed in his nonage. Which being wholly otherwise alledged by our autho^r, it maketh me (ioining his like practises in other places of this booke together) to dæme that he hath not collected his allegations, or examined them himselfe according to the law; but hath taken the collections and rapsodies of

Corrupt
Dealing of
the autho^r.

* Bartol. in l.
si quis posthu-
mus S. filium
ff. de liberis
& posth.

* L. 43. de a-
case ibidem.

some other man by retaile, which maketh him betwixt so often his long cares out of the lions skin : whereof he giueth euen in this section a larger taste, where he alledgeth, *ff. si à non competenti*, there being no such title in the Digests, but in the Code, and *L. maritus ff. de procuratoribus*, where no such law is to be found.

But although no man will denie, but qualities requisite must then be found to be in a person when he is to be employed, yet this hindereth not, but that in an office which is not tied to one circumstance of time, but hath a continuance, all honest meanes for the better and better furnishing of him with such qualities in that charge, are and may be from time to time vsed, without any impeachment to his credit, as though he had bene at his first entrance into it, not a sufficient man for that function. But that which is here said concerning the nullitie of that which is done beyond the bounds of a compromise or commission, is no waie appliable to a trust committed for adiudging the qualities of the mind considerable onelie by his discretion, and therefore cannot proue if one be made minister by a Bishop, not so fullie qualified, as the law in all points requireth, that thereby the whole actions are void and frustrate. Shall we saie that an Ambassadoe hauing instruction to imploye a discret, faithfull, and secret man about some seruice, shall be guiltie *πὸ τοῦ ἀπερσεβέας* if the partie imployed seeming to him thus qualified, shall be after found to faile in all or some of these, and be insufficient: And a Sheriffe being to returne by his writ a iurie *De probis & legalibus hominibus*, if after the verdict giuen vp, it shall be proued, that they or some of them were not such at the time of the returne, shall we therefore quash and reverse all, and saie there was no returne, no impanell, no trial, no verdict nor iudgement: And yet the Bishop hath no authoritie to ordeine ministers by commission, but by operation of law. And if this which he saith be true, Where by disposition of law, a certeine forme and prescript order is

*Vide respons.
sect. 39.*

3. Sect.
e so
ge
eth,
ks,
no
ui:
be
ich
nti:
ni:
nd
ch:
en:
But
ich
ff:
ge:
his
ni:
all
did
ng
an
es
all
uf:
rie
pp,
ch
re:
no
th
pp
re
er
is

is limited, that there if anie inuersion or preposteration be vsed, all is cleane marred, and therefore the whole actions are void and frustrate: What are we then to iudge of those, who are here in England baptized without the signe of the crosse, those which are married without the ring, and those who are punished for not comming to diuine seruice, there where the forme of our Liturgie by law established, is not exaetly obserued: Which I set downe, neither to impeach that baptisme or marriage (howsoeuer to the intent of inheriting by the common law a doubt of such marriages hath bene made) nor yet to excuse any wilfull recusants, whome it is well knowne in any such regard not to absent themselves from prayers, but to set downe the rash generalities and paradoxes, which the Abstractor so confidently rusheth into, euen with the ouerthrowe of those, in whose fauour this treatise is made. Notwithstanding manie of his clients, though they aduenture to preach, are as void of good learning (as I could in particularitie shew) as the most of these Dumb, silent, and idoll ministers, which he so deeplie lanceth. Yet neuertheless, that is not generalie true which he here auoucheth, that an inuersion or preposteration vsed doth make alwaies the act void. For to this effect it is required, that it be committed in some matter of substance, & also that it be the inuersion of some substantiall order set downe by man. For if it be the preposteration of an order set downe by law, it is to be appealed from, and therefore produceth not a direct nullitie *Ipso iure*.

* Bald. in L. ambiguitates C. de testamētis & Casr. consil. 39. alias. 43. visis Actis.
* Bald. in L. 1. C. de appellat. 3. nota.

9. Section. Pag. 15, 16.



His which the Abstractor here bringeth out of the Code, that merit, not monie in making of a minister is to be regarded, as it is too general to proue by the word of merit, such a worthinesse as he inforceth, so being (as appeareth by the whole context.)

C. iij.

Attu-

Constit. 133.

Resting
of law.Constitutio. 3.
S. & sanct.

stitution) spoken of a Bishop onelie, and not of euerie minister, as he indefinitely doth translate it, though otherwise it may be as trulie said of the one as of the other, it is not so direct so: the purpose which it is brought so: The first member of that which he alledgeth out of the Authentikes, but not the second, do I find either in Haloander his edition, or in the Greeke or Latine edition of Contius. And whereas the constitution is *ἐν μὴ γράμματι ἴσασι*, vnlesse they know letters, that is, can read, he hath helped the matter a little by interpreting it *Aliquanto pinguius*, vnlesse they be learned, which neuerthelesse might be granted vnto him, and yet no such learning necessarilie imploied as he seeketh to establish hereby. But the word *Clerici* clerkes, and not *Presbyteri* priests here vsed, whereby not onelie in this constitution, but in all other the nouell constitutions, any, whether he be *Ostiarins*, *Lector*, *Cantor*, *Subdiaconus*, *Diaconus*, or *Diaconissa*, is signified, doth put the matter wholie out of doubt, that neither ministers are here especiallie provided so: nor such exquisitnes of learning as he would gather, can be any waie intended in them to be hereby exacted. Vnlesse he will also saie, that the 100. deacons, the 40. deaconesses women, the 90. subdeacons, the 110. readers, the 25. singers, and the 100. doorekeepers or sextens, being the limited number of clerkes, and so called by Iustinian so: the great church in Constantinople, to haue all bene of that learning, which he maketh to be the onelie touch of his minister. And if I were perswaded, as in this place he is, that by the word Constitutions mentioned in the Act 25. H. 8. Cap. 29. the constitutions imperiall were ment, I could bring manie such, neither repugnant to our lawes, nor to the hurt of the prerogatiue royall, which I beleue he himselfe will not saie to haue the force of law amongst vs, and therefore must hereby be diuen to yeld that he made a defectiue Mino: in his first fundamentall syllogisme. And thus hitherto, neither the canon, prouinciall, ciuill, nor statute law hath giuen any direct

direct condemnation against such ministers as are not sufficientlie able to preach and expound the scriptures, hauing otherwise competent gifts of learning in some measure. Neither are such of them (though they be no preachers) to be accounted Dumbe and silent, who in their churches doe exhort, dehort, rebuke, comfort, and also in some degree instruct their parishioners, as their abilitie serueth, and occasion is offered. Which I know they may as profitablie doe, as some, who of as meane gifts, but of more audacitie than they, dare take vpon them to expound and diuide the scripture, by preaching vpon some text, vnto which they in their whole discourse doe come iust as nere as Germans lips are said to come together. But whie should he vpbraid them with the name of Stipendaries, seeing neither they alone, neither all they be such: and it is a part of the new platforme and church modell, to haue all ministers put to a certeine standing pension of monie, which may more aptlie be called a stipend, bicause if they displease the payemasters, they shall perhaps be driven to seeke it *Tanquam stipem ostiatim*, and so it shall rightlie beare the name of a stipend.

10. Section. Pag. 16, 17, 18.



Bicause the Abstractor here maketh himselfe angrie, and is in a peltting chafe with those that dare presume to answer any thing to his former proofes, and that will tell him that the knowledge there spoken of may be verified to be in manie, which yet are not fit to preach, whom he for such answers calleth Peruerse, conceited, selfe-weening men, soothing themselves, and fostering their dotages and fond affectionous errors with certeine rules of law, whereof they are ignorant, as he taketh vpon him here to proue: it shall not be amisse to set downe their answers by him rather pointed at, than trulie

L. 18. si quid
venditor. ff.
de adilitio
edic. vers. hec
omnia.

L. 19. scien-
dum ff. d. §.
illud scien-
dum.

Scientia.
Peritus.
Non indoc-
tus.

truelie produced, as they lie in the law, that they being conferred with his replie, the truth may better appeare. The ciuill law saith, The performance of that which the seller shall speake in commendation of the thing sold, is not rigorouſlie to be exacted of him, but to be taken with a reasonable construction. As if he affirme the seru-
uant he selleth to be a staied man, we are not thereby to require such a setled grauitie and constancie as is in a philosopher. If he affirme him to be painefull and watchfull, we may not herevpon looke for continuall toile both night and daie at his hands: but all these are with an equitie in some measure to be looked after. **And againe in the same place,** He that in the sale of his seruant shall without further addition affirme him to be a cooke, he satisfieth the buyer, if he performe him to be measureable skilfull in that trade: and the like is to be said of all other kind of arts. **And in the next law following,** This is to be vnderstood, that if a man promise one to be an artificer, he is not hereby strait bound to performe that he is exquisitelie, but in some good measure skilfull: so that you are neither herevpon to take him to be an absolute workeman, nor yet altogether vnskilfull; and therefore it sufficeth he be such an one as those be, who commonlie are called artificers. **Where by the waie may be noted that acception of these words,** knowledge, cunning, and learning, which before in sundrie places hath bene spoken of. That which is quoted by the author, as an answer of some to his allegations out of the canon law, is to this effect: whereas the Chapter of Capua had chosen an Archbishop, *Cuius literatura licet non eminens, tamen conueniens extitit*: whose learning though it was not about his fellowes, yet was conuenient or competent as he readeth it, that in this respect as for want of knowledge the election made of him was not to be reuerſed. And if this seemed a reasonable decision in an Archbishops election, whose high degree and place requirerh a greater and more excellent measure of learning: shall we not

not admit with good reason, according to the great inequality of places, and diuersitie of rewards for learning, and varietie of times, some degrees, as of excellencie, competence, and mediocritie of gifts and learning, required in a minister: Or else shall we, vaine-ly dreaming of a Platonickall Idæa, fantasie with our selues, that a man which a long time hath spent in studie, his bodie, and of his friends or of his own monie in the Uniuersities perhaps as much as would haue purchased vnto him double as much yeerlie annuitie for his life, as the greater part of the seuerall benefices in England be annuallie worth, can so put off to be a man, as that then he can endure to take as a reward of all his trauell to susteine in his declining yeeres, him and his familie withall, such a living, as the meanest husbandman in most countries hauing a plough tilt shall be able to spend as much in his house in a yeere as he: And surely, if a surueie were taken of all parish churches and parochiall chapels in England, I dare auow that it would fall out that there be double or treble as many more livings allotted for ministers vnder the true value of thirtie pounds by yeere, *Ultra omnia onera & reprisas*, as be above that rate. And how those which be of better liueload, are fleeced, and corruptlie bestowed in manie places, some of those know best, who doe seeme most to vige a reformation in other points: whose clamors are like that of him, who cried in the pursute of himselfe, Stop the theefe, Stay the theefe, &c. as fast as the best: and are onelie to diuert the eyes of preachers from looking on their owne vsuries, simonies, monopolies, and oppressions, and to procure them to whet their tongues vpon their brethren, whome they see in better case than themselves are, though perhaps in their opinions not so worthe. But our author here telleth vs (though something darkelie) that the Learning and knowledge of our ministers which are not able to preach, whom he verie mildlie and charitablie calleth Bare mumb-ling ministers, is so farre from being to be accounted

Compe-

competent or sufficient, that is not by Iustice & equitie of law to be reputed meane in that sense which the law taketh it. Which if it were true, that they were farre vnder that measure which the law requireth, yet the illation which here vpon he inferreth, that Then they are guiltie of voluntarie intrusion, and to be punished for taking vpon them offices without any lawfull calling, can no waie follow of those premisses: for seeing euerie man is an euill and partiall iudge towards himselfe, then not they who offer themselves to the triall and examination for sufficiencie of those whome the lawe herein authoriseth; but those who should see more in them than they are able in themselves, are to be blamed for approbation of them, as appeareth by the * law here quoted.

*C. innotuit
nobis Ext.
de elect. §.
habito ergo.

C. ignorantia
dist. 38.

Pag.17.

But his first profe, which he here bringeth for the overthrow of meane, competent, and sufficient degrees of knowledge in a minister, bicause he imparteth not vnto vs from whence he borrowed it, belike he would haue vs to take it vpon his owne poore credit. By the waie this I obserue, that the highest degree of knowledge, which the law termeth Eminent or excellent, he in his discourse termeth Sufficient, perhaps to insinuate that no knowledge is sufficient for a minister but that which is eminent. Yet this exhortation that Ignorance be auoided in ministers, that bicause they haue An office of teaching, the scriptures by them are to be read, and that all their labour consist in preaching and doctrine: doth neither overthrowe the said distinction of meane, competent, and eminent, bicause these points may be in men according to all these degrees; nor yet argueth, if these be not so exactly performed by them, that therefore they are intruders. S. Paule exhorteth a minister to rebuke, reprove, and to be instant in season, and out of season: yet if some performe these offices more perfectly, other more sparinglie, according to their severall gifts of mildnesse and knowledge; shall we saie, that he which fulfilleth not those in the highest degree, and according

ding to the best, is therefore no true minister: or rather that he doth not the duetie required of a minister so fullie as he ought: And so in this place by him alledged, though a perfect patterne of the most necessarie part of their function of labouring wholie in preaching and doctrine, is set before them for to strue to be attained vnto: yet, neither is praier, visiting of the afflicted, hospitalitie, or administration of the sacraments hereby inhibited to a minister: neither are all condemned hereby for Intrudors, which being not so fullie furnished to perfoyme that which in comon speech we call preaching, doe teach according to the abilitie given vnto them of God, and publish forth his will out of the word, though it be onelie by reading. But in another respect, this canon cannot necessarilie inferre such a skill in euerie minister, whereby he may be a preacher: bicause as in the most of the old canons *Presbyteri* are taken for ministers, and *Clerici* for inferiour ecclesiasticall persons; so is this word *Sacerdos* taken, not for euerie inferiour minister, but *κατ' ἐξοχην* for the chiefe minister in the diocesse, or Bishop: and so* the glosse in the next chapter following doth expound it, *à sacerdote, id est, ab episcopo*, of the priest, that is, of the Bishop: of whom the law in sundrie places laieth both a greater care in preaching, and also a greater sufficiency therevnto than ordinarie. Also it may be trulie said, that by Preaching, in law is not alwaies meant that solemne expounding and breaking of the scriptures, as we do usuallie speake; but sometimes anie publishing of the word of God, euen such as is done by reading, may well be vnderstood. And therefore the glosse doth* interpret those words of the canon: *Quæ prophetae uaticinati sunt, populis prædicare, hoc est, legere*: to preach those things to the people which the prophets haue prophesied, that is to saie, to read them openlie to the people. But yet, if we should admit this canon to be spoken of inferiour ministers, and of preaching in the most usuall signification, we might with more probability thus conclude, than as our autho: doth: seeing for increase

* Gl. in C.
quando, dist.
38. verbo a
sacerdote.

* Gl. in verbo
predicare,
dist. 25. C.
per lectionem
ad lectorem.

increase of his knowledge, a minister is exhorted to attend to reading and exhortation of doctrine, therefore he may rightlie be called a minister, before he haue attained to that perfection of knowledge, which he ought to endeavour for. And though he, which doth not bestowe his labour in preaching and doctrine to the uttermost of that abilitie which God hath endowd him withall, doth not as he ought; yet as it followeth not of any thing by him brought, so may we not peremptorie thus saie, that he is no minister at all, or pronounce him An intruder, or without anie lawfull calling, as the author doth in this discourse, though he come short of the proofe thereof, in the conclusions of his syllogismes: which are nothing else but foolish fallacies, proving a matter unknowne or doubted of, by a matter no lesse doubtfull.

II. Section. Pag. 18, 19, 20.



He draweth neere the dregs of his proofes here, when upon a bare occasion of this, to be Mightie in word and deed, required of a prior being next to the abbat, not to any intent of preaching, but for observation of the regular discipline of the monasterie, consisting (as in the same chapter is mentioned) in the maner of their meates, their apparell, their not enioyng their goods in proprietie, and in the maner of their silence in some places, and upon the largenesse of that word as it is vsed in scripture for much more excellent gifts; he would inforce that there cannot be such degrees in ministers, as some to be of meane, some of competent, some of eminent knowledge and learning: or else would gather, whosoever is not so mightie in word and deed, as this speech is sometime in scripture vsed for, to be an intruder, and to haue no lawfull calling. Whereas we see no such matter of learning is hereby required to be in the pri-

Latw racked.

No consequence in his reason.

or, as he imagineth, neither if it were, is it necessarie that euerie minister should be of as great sufficiencie as a prince, though in a generalitie some offices incident to the one, were also required to be in the other. In his glosse or discourse hereupon, as hauing proued that which he promisseth, he climeth into his throne, and stoutlie demandeth of our chiefe prelates; What they can answer in defense of their wilfull disloialtie to the Lord, in not being so carefull, as the superstitious lawemaker was, for his superstitious time? **And by the waie he accuseth them** To maintaine tooth and naile a policie of a traitorous lawemaker, a policie perillous for the gouernement of the state of the Lords household: and as though that gouernement which they vse, were rather by them Challenged, than duellie attributed vnto them. And so: proue that the policie by them vsed is such, he reckoneth diuerse points as popish, Which they turne (as he saith) to the maintenance of their prelacies, dignities, and ministeries vnder the Gospell. Surelie a verie greuous accusation, being so generall and indefinite, against so manie reuerend Fathers, supplieng one at the least of the thre estates of the land in parlement, euen by the ancient policie of the same, being also according to our lawes *Magnates & Pares regni*; and such as haue bene the cheefest either planters or waterers of this church vnder the time of the gospell: but especiallie when it comineth from such a one as would seeme to be a professor of the gospell, whereof these and such like speeches, too too manie in this booke, are neither branch, bud, nor fruit. And except they were the voices of some sonne of Beliall, as was Sheba, that is without pike of all christian humilitie and patience, I cannot see how such contumelious loslie speeches (though they were maintainable) could become any subiect in this land, thus to publish in a printed booke; but much lesse this virulent spirited companion, whosoever he be. And is indeed all our Gouernment ecclesiasticall but challenged: Is the policie and state of our church Perillous for

Stainde-
rous spee-
ches of the
whole state.

for the gouernement of the state of the Lords household?
**Is it the policie of a Traitorous lawmaker? Are our chiefe
 prelates** Maintainers of such by tooth and naile? **And are
 they abbettours of such Traitorous lawes or lawemakers?**
Do They mainteine their prelacies, dignities, and mini-
 steries vnder the gospell by the lawes of Gods enimie?
And can the pope, being no subiect, be called a traitor, or a
 traitorous lawmaker, though he be a suborner or stirrer
 vp of as manie traitors as he can inuegle? **Trulie these**
iniuries debase the great blessings of God, which by his
Maiesties gracious meanes we enioy by the pure prea-
ching of the gospell, and reformation of this church from
all poperie and superstition, and is dishonorable to his
Highnes gouernement: yea, it reacheth both to those god-
lie lawes and latomakers, which by parlement haue esta-
blished this policie, and the gouernement ecclesiasticall,
which we now by Gods mercie enioy: men who are as
loth to lye to be accompted maintainers of poperie, or of
perillous and traitorous policies and gouernements, as
this man is vnwilling not to shew himselfe dogged and
spitefull. For it is well knowne, that no other policie is
practised, nor gouernement put in vze, but such as the whole
some lawes of this land haue fortified: and therefore for
him thus to carpe at the lawes in a slanderous libell,
before the same authoritie hath reuerfed them, it is in-
tollerable, and would in some places be accompted sedi-
tious. Neither will his euasion serue him, bicause the que-
stion is not [*Inter pares, amongst equals*] **as he saith: as**
though he could not speake better of the said lawes and
acts of parlement, without prejudice Of the honour of the
sonne of God, by accusing him not to haue giuen a perfect
law for the gouernement of his fathers household by disci-
pline, as well as by doctrine. For, as hereby he would ex-
cuse himselfe for his contemptuous and opprobrious spee-
ches against his Maiesties lawes, and the whole state of
the land, and the policie and discipline of this church; as
 though

Factionous
 speaking
 against the
 lawes in
 force.

though he were forced for the safeguard of the honour of Christ: so would he insinuate that all other not of his opinion, are recklesse of Gods honoꝝ, and that both the policie and gouernement of dur church is contrarie to Gods will reuealed by his word, and also that Christ hath left a set externall forme of policie and discipline to be exercised in euerie particular point thzoughout all the seuerall churches in the world.

Andeed if these two were true, which I thinke will be verie long in prouing, he might with moze reason haue said as he dooth; yet both in milder maner, and in a place moze conuenient than in a pamphlet, whereby a gelousie maie be byed amongst the simple, that they haue béene all the time of hir Maiesties reigne misseled by their gouernoꝝ. I do therefoze saie and offer in the name of the learned, to him oꝝ other to consider of, that it is taken by vs for an vndoubted truth, the contrarie whereof by no pꝛoofe we do assure our selues can be shewed: that There are not set downe in particular by scripture, or by necessarie collection to be gathered, all circumstances of policie, gouernement, discipline and ceremonies necessarie and vniformlie to be vsed in euerie seuerall church: and that the christi- an magistrats and gouernoꝝ are not in the said former points, whereof something is touched in scripture, of necessitie tied to that precise forme that is there set downe, but to the generall doctrine concerning them; to wit, that all be done to edifieng, orderlie, comelie, and such like: if any will affirme otherwise, let him set downe his plat and his pꝛoofes for euerie particular, and he shall see whether he come not short in most points. Neither do I see why he should so odiously traduce certeine thinges vsed in our church, till he haue pꝛoued them vngoodlie, in this respect onelie; bicause they haue béene either inuented oꝝ practised vnder some bad popes, moze than he dooth all the nations of Christendome, as well in refoꝛmed as not refoꝛmed churches, for giuing a notable place in their common

Disloyall
& presumptuous
speeches ground-
ed vpon
an error.

D. J.

weales,

weales, vnto the ciuill lawes of the Romans, deuised for the most part by painims and idolaters, or than he doth the common or municipall lawes of our owne nation taken either from the old Saxons being heathen, or from the Normans being but newlie christened, howbeit still grosse papists and idolaters. But as touching his questions, How our chiefe prelates can answer to the Lord for their wilfull disloyaltie, for want of carefullnes requisite, seeing They continuallie place vnable men in the ministerie, and why they should not let those canons before brought for a learned ministerie, being now their owne lawes, be available with them? (he might haue said as well his and euery Englishmans lawes, for all be parties to an act of parliament.) I answer first, that in those able men for the ministerie which they haue laied their hands vpon, I am perswaded they haue not done it so much for a bare satisfaction of law, as for the exigence of the cause, and for discharge of a good conscience. Further, if they haue ordered some of meane abilitie, it hath bene in respect of the slender portions of liuing allotted out in most places for the finding of ministers, which places other wise should be destitute wholly, whereby the people would in short time become as heathens and painims, or be as sauage as the wilde Irish, to the great danger of their soules, and hazard of this state. And if it shall be said, that they haue preferred any to the ministerie vtterlie ignorant and vnworthie, willinglie: Charitie teacheth me not to iudge the worst, nor to iudge before the time, vntill the Lord come, who will lighten things that are hid in darkenes, and make the counsels of the harts manifest. So far am I from iudging it to come of any disloyaltie to God, especiallie of wilfulnesse, which is the next degree to the greatest sinne that may be: for if any of them had wilfullie admitted such a person into the ministerie and of set purpose, then would he also haue reiected such as being verie worthie, haue offered themselves to that function, which to this daie I neuer did heare to haue

1. Cor. 4, 5.

haue bene surmised by any man against any of those reuerend fathers, whom I perswade my selfe it is a singular comfort vnto, when they may be meanes and instruments of bringing wortheie workemen into the Lords haruest.

12. Section. Pag. 21.



That which is heere brought out of the comon Extrauagants, though the Autho^r telleth vs, that it overthroweth the authorising or ratifying of an vnpreaching or vnlearned ministerie, which no man I hope wisheth to haue established, whereas yet manie do thinke that he is not straightwaie to be accounted An intruder, without any lawfull calling, or no minister at all, which wanteth that perfect abilitie required to be in a preacher: yet dooth the said constitution speake no one word concerning ministers or secular priests, as they then termed them, as to that effect and purpose: but onelie prouideth certeine priuiledges for so manie as should be deputed therevnto of the order of friers preachers and mino^rs, commonlie called graiestriers, common extrauagants indeed and wanderers, that they might heare confessions, haue certeine benefits at burials, and preach in any church or street freele without licence of the Bishops Diocesan, sauing in certeine cases; these friers indeed, and not onelie Brethren, as the autho^r craffilie and vntruelie hath translated them, vnder the fauour of the equiuocation of the word *Fratres*, yea no^r all of them neither, but such as by their prouincials should be especiallie culled out for that purpose, the Pope meaning to authorize to preach where they list, least the secular priests, (of whome also mention is made, but without any mention of their preaching) should thinke themselves wholie disgraced by this vnbounded and vnconfined libertie giuen vnto the friers: he did therefore thinke good, besides an apologie in the fri

allilful corrupting of the text.

ers behalfe full of commiseration made by him in the end of this constitution vnto the secular priests, to exact also some speciall qualities in these friers thus to be sent on thriuing and preaching, vnto the which the secular priests looking and finding themselves inferior, might with more patience be induced to tolerate the friers to preach and heare confessions in their cures. Yet to the intent it may fullie and plainelie appeare, that neither this canon, nor any other in force, exacteth of euerie inferior minister necessarilie to be a preacher, it is to be vnderstood, that though this canon alledged, be plainelie by him falsified, and pertaineth onelie to a few friers which should be chosen out of all the heard for this function, yet is it also ^{*}reuerfed by a later pope, and standeth in no force, otherwisse than it agreeth with the canon of Repeale. Furthermore the ^{*}law flatlie decreeth thus; Seeing th' apostle saith, How shall they preach except they be sent? Therefore all that either be expresselie forbidden, or not sent by the authoritie of the apostolike See, or of the catholike Bishop of the place, and yet shall presume to vsurpe the office of preaching publikelie or priuatelie, let them be excommunicate, and except they shall speedilie reforme themselves, let them be further punished according to their deserts.

^{*} cl. 2. dudum
de sepulturis.

^{*} c. 1. ex -
communica-
mus §. quia
verò Ext. de
hereticis.

^{*} Gl. in c. quod
Dei simorem.
in verbo pri-
uilegium,
Ext. de statu
monacho.

And the glosse vnto this purpose doth ^{*} thus gather; In this is the office of preaching priuiledged, bicause no man ought to preach except it be committed vnto him by the Bishop of the place, or the apostolike See, and those who by election are chosen vnto it: as is expresse in Cl. 1. de regula, & in Cl. dudum §: huiusmodi. de sepulturis: which be places spoken of these friers, whereof we doe intreate. And so you see the authors plaine dealing, and his impregnable proofes both against those three degrees of learning in ministers afore mentioned, and also for this conclusion, that none may vpon any occasion whatsoever be tolerated in the ministerie which is not an able preacher, yea euen by the canon law it selfe.

13. Section. Pag.22, 23, 24.



The principall scope of this section containing a prouinciall constitution of this land, and the authors exposition of it, is to proue that the Competent and conuenient knowledge which euerie minister ought to be adorned with, is at the least to be

able To expound in the vulgar toong, vnto the people euerie quarter of a yeare once, certeine principles of christian religion there specified. Surelie, if by this Expounding in the vulgar toong, he thinke such an exposition to be meant as preachers vsuallie do make vpon a text, he will be easilie conuincd by the words here vsed, & the circumstances. For if a sermon had bene ment by Expounding, in baine was that added, In the vulgar toong; except otherwise the lawemakers had feared they would haue vpon those texts preached in Latine vnto the people, whereof there was no great danger at that time, that it needed so to be prouided for. And therefore [to expound in the vulgar toong] must needs be vnderstood to declare it into English, word by word as it laie in the Latine; except you will saie it should be done in more words with some reasonable paraphrase for the peoples better conceiuing of it, which yet seemeth to be somewhat abridged and restrained in these words, Without intermeddling of anie subiltie according to his owne fanfie. Further, whie should this alternatiue be set downe, Either vpon some one or more festiuall daies? seeing by no possibilitie it could be intended, that he could runne thorough by sermon or lecture in one daies exercise, all the Articles of our beleefe, the ten commandments, and the two precepts of the gospell, concerning the loue to God and to our neighbour, The seauen workes of mercie, the seauen deadlie sinnes with their offspring, the seauen principall vertues, and the seauen sacraments of

D.ij.

grace:

grace: all which last our author thought good to omit, least thereby all colour should be taken awaie from his interpretation. And if vpon this constitution he will gather, that in euerie priest an abilitie of preaching or expounding the scriptures was then necessarilie required: it may be retorted backe thus, that then the synod would haue suffered men of that abilitie and discretion, both to preach or what text they had thought good at all times, and would not haue restrained them from intermedling such expositions as they should thinke conuenient: Which things are sufficient to shew vnto vs what is ment both by Once in a quarter, and by those words, On more festiual daies; that is to saie, that once a quarter they shall go ouer all the said principles of religion in the English tong, either all in one daie, or else vpon mo daies, in case they cannot conuenientlie in one daie dispatch all. But yet that the authors wilfull racking may be more manifest, and that a meane learning indeed will serue this turne to preach, as here is spoken of, I would they which trust our author for a plaine dealing and an honest man, would but take the paines to peruse this * constitution which he alledgeth; they should then find that this preaching which he so extolleth, and which he thinketh to implie more than a meane or sufficient measure of learning, is nothing but a breefe paraphrase, not to be deuised by the priests themselves, but word by word heere set downe for them to be learned and vttered like the lesson of a scholar without booke. In which respect also, in the end of the constitution it is plainelie signified, that they haue concerning the said points of christian religion [Taken paines to make that breefe exposition, for the instruction of such priests as were simple.] Ioca, the practise & learning of the priests of that age is so meane a rule for vs to square out our ministers sufficiencie by, or exercise of their function; that it * was forbidden here in England, vnto euerie priest, how sufficient soeuer otherwise his learning were, being not licenced a publike preacher, so much

*c. I. de offi-
cio archipre-
sbyteri, con-
stitut. promin.

** c. 1. §. sacer-
dotes verò
constitu. prou.
de hæresicis.*

as to catechize or instruct his parish of anie other points of religion, or in any other maner, than was set downe vnto him by that paraphrasticall exposition contained in the said constitution. *Illa sola simpliciter predicet, una cum precibus consuetis, qua in constitutione provinciali a bona memoria Iohanne, &c;* whereupon the* glosse saith *simpliciter*, [that is to saie, **Gl. ibidem, verbo simpliciter.* without any theame or text to entreat of, or other solemnitie, but euen as the words do lie.] Furthermore he telleth vs vpon his owne bare credit, that from hence Quarter sermons now amongst vs haue crept in and had their beginning. But it is rather to be thought, seeing it could not (as the times are) be hoped for, that in euerie church there might a preacher be placed, that yet they would provide as nere as they could, that the people should not be wholie without instruction of the word preached. And where he saith, that the said Quarter sermons are suffered with greater corruption, than in those former daies they were, and thinketh the same sufficientlie proued by that it is here said In one or in more festiuall daies, as though hereby more sermons were required in a quarter of a yeare, in those daies than are now, I thinke it is sufficientlie answered afoze. But bicause the author imagineth some aduantage would be taken against him hereby, seeing it is here said, the priest may make this exposition By himselfe or another, he thought good to stop this gap also: and answereth to this effect, as I conceiue it; that this is not therefore tolerated to be done by another, in respect of the disabilitie of the minister himselfe, but in respect either of manifold busineses, bodilie infirmities, open hostilitie, or some other necessarie occasions. And he proueth this to be the sense of the said constitution prouinciall, by an argument taken out of the canon law, reasoning *A maiori ad minus affirmati-* An absurd
 on, like a deepe Logician: that bicause it is not tolerable reason.
 for a Bishop to procure the people whom he ought to teach, to be preached vnto by another, onelie (for want of skill) in himselfe, but vpon some of the afoze recited considerati-
 D. liij. ons,

ons, therefore it is not lawfull for a common minister to procure another to preach for him; where his owne skill is not sufficient. This he enlargeth also by two examples altogether unlike to this matter we haue in hand. For though want of learning may and ought to be a sufficient cause to keepe a man from preaching in his owne person, and to force him to supplie it by some other, though a verie slender skill will serue for the preaching which here is ment; yet for not personallie visiting: not that, but other lawfull impediments must be alledged, considering the like skill is not in the one as in the other required. That which he quoteth out of the chapter *Conquerenti, Ext. de clericis non residentibus*, is not found there, but taken by him from some other mans gatherings out of it. All the words thereof looking toward this purpose any waie, are these, *Vel quod eidem ecclesie non deseruiat*, or if he serue not the said church. Which indeed must needs be ment of personall seruing or residence, because a man cannot reside by another, no more than he can *Corporaliter rei incumbere*, naturallie possesse by another, though ciuillie he may do. The decision of that chapter is this: Whereas one would haue extorted twentie shillings annuittie from the incumbent of a benefice, by colour that the said benefice had bene once collated vpon him; it is decided that he should surcease for euer that claime, if either he had other ecclesiasticall benefices, or did not serue the said church himselfe: which is verie far from prouing that he may not procure another to preach in his cure, which is not a preacher himselfe.

14. Section. Pag.24,25.



That which is brought heere in the first place to proue, that It is directlie forbidden to depute another in the office of preaching, hath no direction to lead vs to know from whence it came: which therefore would (as by other dealings we haue had

had cause) giue suspicion to feare some wresting or per-
 uerting, if it had any shew of substance for that purpose.
 But nothing can be gathered of it, but that such as especi-
 allie and extraordinarilie had that office of preaching the
 crosse recommended vnto them; which (as I take it) was
 to perswade men to go to warre against the Saracens and
 inhabitants of the holie land, bicause their industrie and
 sufficiencie was befoze the rest hèrein chosen, could not
 therefore commit ouer that dutie vnto others from them-
 selues: *Nam substitutus, cuius industria precipue est electa, non
 potest substituere sine speciali mandato.* And I hope that the au-
 thor will not hereby gather, that by lawe now in force, a
 man is vtterlie and simplie forbidden to haue another to
 preach in his cure vpon any occasion, for then all our new
 doctors *De robe curte*, who intrude themselues vpon other
 preachers hauing pastorall charge, must be faine to giue
 ouer their cloaks, and put vp their pipes. This also is a fal-
 lacie, *secundum quid ad simpliciter*, thus to reason: Those
 that haue the preaching of the crosse, to excommunicate or
 to absolve, by letters of commission committed vnto
 them, cannot depute others in their romes; *Ergo* none ap-
 pointed to preach, maie procure others to preach for them.
 Againe, it is vnttrue, as shall appere after, that euerie
 minister by his ordination is made a preacher. Also the
 lawe doth expresselie in many places authorize a minister
 to suffer preachers to preach in his cure, and therefore it
 cannot be doubted but they may haue this dutie furni-
 shed by another. The next alledged out of our prouinciall
 constitutions doeth reason thus: [Persons and Vicars
 ought to labour to informe the people committed vnto
 them with the food of Gods word, according to the mea-
 sure that shall be inspired them; *Ergo*, it is directlie forbid-
 den that the office of preaching should be deputed to anie
 other.] Hèreof me thinke a man might more probablie
 collect against the principall matter now handled, seeing
 the synod knew well enough the words of preaching, ser-
 mons,

*C. vi. S. cese-
 rum Ext. de
 officio dele-
 gati.*

**Reg. in-
 iuncti. art.
 80. & 40.
 Vide resp. ad.
 40. sectionem*

mons, and such like : which neuerthelesse in this place ha-
 uing so fit an occasion, it doth not vse, but tempereth it in
 other maner by [Feeding according to the measure that
 shall be inspired into them, that therefore it was not the
 meaning of the synod to exact of euerie beneficed person a
 necessarie abilitie of preaching, but were contented to
 staie vpon a competent skill, where more exact learning
 could not be procured. But a modest man would haue
 bene ashamed thus purposely to haue abused his readers,
 by sending them to seeke the last constitution by him alle-
 ged in stead of* another brought in afore, or yet to auouch
 that this place more at large manifesteth his purpose, to
 proue that one may not preach for another : wherof it hath
 neuer a word, nor yet any resemblance : neither yet doth
 it exact of them to preach, but to Informe their parishioners
 by the food of Gods word, which may be done many waies
 beside preaching, though not so profitablie. And therefore the
 * glosse distinguisheth preaching from doctrine and other
 information by a disiunctiue, as being diuers things. The
 beginning of the decretall *Inter cetera Ext: de off. iudici or-
 din.* pertaining onelie to the Bishop, may well be a reason
 to inforce a necessitie to haue the people of God fed with
 the word of God, but it nothing helpeth any of these his
 principall issues, that he is no minister at all, who cannot
 preach, or that there may not be admitted the former de-
 grees of seuerall measure in learning, or that a man not
 able to preach, may not procure that dutie by another to be
 supplied. And if it had pleased him to haue called to re-
 memb:ance the next wordes following the allegation
 which he brought in the next page afore, out of the same
 chapter, he might haue scene * there, that Bishops either
 hindered (as there is said) or hauing great diocesses, should
 chuse fit men for the office of holie preaching, which in their
 stead (when they are otherwise letted) may execute the said
 office, and carefullie visiting their flocks committed vnto
 them, might edifie them by word and by example, and so
 be

* c. presbyte-
 rorum consti.
 prom. de off.
 archipresby-
 teri.

Glosse ibid.
 verbo latra-
 tu.

Three issues
 by the au-
 thor to be
 proued.

Pag. 23.
 in fine.
 * Inter cetera
 Ext. de off.
 in lord. vers.
 generali.

be ioint-helpers and workers with them. Therfore if that decretall should containe a reason, why one might not preach in anothers sted (as the autho^r seemeth to thinke) it were a verie strange Antinomie and Brocard hardlie to be reconciled by anie supersubdistinction whatsoeuer.

15. Section. Pag. 25, 26, 27.



An inquisition in this behalfe, how the prests, whom he translateth Elders, haue done their duties, being no otherwise than is shewed before, doth not adde any weight to the former proofes, for any of the said three issues set out: and the words of Preaching or publishing, vsed with a disunctiue, doe argue plainelie, that he did not deale simplie before, when hee would haue the expounding in the vulgar tong, of the articles of belêse, the ten commandements, &c: to be so manie sermons, seeing they are heere plainelie distinguished, so that any publication thereof sufficeth. For a disunctiue being put betwixt two persons is vnderstood for a copulatiue, but being set betwixt two things, (as in this place) it is far otherwise, and implieth a disunctiue indeed, though the glosse doe seeme otherwise to salue it. For euerie publication of a thing cannot be called preaching, as we vse the terme in common speech. But why are Presbyters such as are to expound in the church, translated Elders? I trust he mindeth not heereby to shut out all laie men from the elderthip or seigniozie which is dreamed of, least peraduenture he himselte be *Exclusifsimus*. But here he enforceth againe, a place before alledged, accompanied with two other glosses: the place was afoze spoken vnto, and the glosses speake not to any other purpose (as is euident) than to require and wish as great abilitie in a minister as conuenientlie may be had; yet not condemning thereby all As intrudors or as no ministers at all, that haue not

Pag. 23.

* Bald. in l. 4.
C. de. ver.
et verum.
signif. gl. in e.
Ext. parte
Ext. de re-
script.

* *Constit. O-*
thonis c. 11
fit art.

Rebuff. in
praxi benef.
pag. 9. in fol.

* *Art. 43. In-*
iunct. Regi.

not aspired to that perfection, which is the point in issue by him laid downe. But in these two glosses also he keepeth his old wont, to quote them so generallie, that a man may seeke them where he will, for he shall be sure (by any direction he giueth) neuer to find them. For although in nine or ten pages afoze (manie other allegations being brought betwixt) he alledged the * place from whence he borrowed them, yet now as though it had bene the next allegation befoze, he useth the quotation of *Glossa ibidem*, the which dealing with other like by him used, doe argue this at the least, that he was loth to seeme to borrowe so much out of one place, least he should thereby betwixt his want. If he will gather for his purpose any thing of that which Rebuff. saith, [That those are accompted vtterlie vnlearned, that knowe not how to doe the office to the which they are bound; then must he first proue that no ministers besides preachers doe knowe how to doe the office to which they are bound, and that of necessitie the office of preaching is incident to euery minister, according to that vnderstanding that this word Preaching is vsuallie taken in. Yet it is verie generall thus to alledge Rebuff. without quotation, who hath writtten manie bookes, and some of them of great largenes. All that I can find any thing sounding this waite, is this; *Illiteratus, &c.*: A man vnlettered cannot be preferred, bicause he that (*caret literis*) that is, cannot reade, or is not booke-learned, cannot be fit for diuine offices. The * iniunction which he alledgeth, prouideth that such as not long befoze the making of the said iniunctions had bene made priests, being children, and otherwise vtterlie vnlearned, should not by the Ordinaries be receiued to anie benefice or cure, but reiected. The equitie of which iniunction I grant (though it be out of the letter) remaineth still vntouchable to be obserued, that children and men vtterlie ignorant, be neither receiued into orders, neither if by any minister meanes they haue crept in, that they be admitted to benefices and cure of soules. Now the author hauing by waite

waite of recapitulation ministred forth all his former
 proofes, he telleth vs in effect plainlie though he made shew
 to proue, that no competencie or conueniencie of lear-
 ning, without an especiall abilitie of preaching, would
 serue any ministers turne to be excused from intruding,
 and from being accompted no minister at all: yet it was
 not this which he looked at especiallie, but to leaue an im-
 pression in the minds of the readers, That our dumbe and
 vnpreaching ministers haue not so much as a competencie
 or conueniencie of learning, whereby he might debase
 them and bring them into obloquie. So that it seemeth
 they might haue his commendation and allowance to
 continue their roomes, if this competencie were but in
 them, whatsoeuer he hath aforesaid sounding to the contra-
 rie. But he is angrie also with their Bare reading, and be-
 rie peremptorie assureth vs, That they shall neuer be in-
 struments of the Holie-ghost to worke faith in the hearers:
 but he limiteth it with this word Ordinarie: which he see-
 keth to establissh by that of S. Paule; And how shall they
 heare without a preacher? Cruellie, as it must needs be
 confessed that the plaine resolution and unfolding of the
 word, in scripture called *ὁρθοταξία*, The aright cutting
 thereof [and the giuing of the due and fit allotment of it in
 season] which is performed by discret and pithie preaching,
 is an ordinarie and the most excellent meanes to ingen-
 der faith: so is it a great error in diuinitie, to thinke that
 God neuer blesteth the reading, or the hearing of his word
 read, but extraordinarie. For then, whie is it commanded
 that the law of God should be rehearsed continuallie to
 our children, that we should talke of the commandements
 in our houses, as we walke by the waie, and when we lie
 downe, and when we rise vp, that they should be tied for a
 signe vpon our hands, and as frontlets betwene our eyes,
 that they should be written vpon the posts of the house, and
 vpon our gates: that we should meditate therein day and
 night, that all the daie long our studie should be in his law,

A malicious
 conclusion,
 yet far from
 his proofes.

Deut. 6.

Psal. 1.
 Psal. 119.
 Iohn.
 Act.

and

Aperillous
and vncha-
ritable doc-
trine.

and that we should search the scriptures? Also while was Moses read in the synagogs euerie sabboth daie, and they of Thessalonica commended for their reading of scripture, and conferring it with that which they heard: And shall we saie that so manie thousands, as in late time of persecuti- on were converted from idolatrie by reading of scrip- tures and diuine treatises, obtained not faith by ordinarie meanes, or that without especiall miracle and extraordi- narie working none are saued in this church of England, where their minister is no publike preacher? And is not the declaring and publishing the word in the mother tong, wherein (as Augustine saith) In those things that are there plainelie set downe, is sufficient for faith and conuersation, a kind of declaration and preaching forth of the Lords will vnto vs? But vpon what ground that other vehement ac- cusation of his standeth against such our ministers as be no preachers, That they rob the Holie-ghost of his proper honour and office, whereby he inspireth the preachers of the gospell with the spirit of wisdom, &c. in truth I can not coniecture, except he will gather it thus: Preachers of the gospell are in good measure inspired by the Holy-ghost with the spirit of wisdom: Ergo, whosoever be no preachers, but do onlie read the word of God to others, doo rob the Holie-ghost of his proper honour and office. Which ar- gument if I should denie, hauing but propounded it once, I should do wrong to the simplest reders capacitie that may be; euen as he hath abused their patience to propound it.

16. Section. Pag. 27, 28, 29.



Now helike as being priuie with himselfe, that he hath brought no sufficient concluding reason to proue such a necessitie for euerie minister to be a preacher, as that therof it should followe such to be no ministers at all, who are no preachers, he seeketh by ex- hortation

hortation (though beside the rules of Rhetorike) when he at the first sumpe calleth them Idols, to induce them to yeld vp their places, which they vniustlie (as he saith) doe possesse. And if in strict points of diuinitie, this be thought lawfull, and that there might be found such as he fancieth fit for sufficiency, to supplie all their roines, I would wish he could perswade thus far, not onelie with those whome he calleth Idols, mumbling, dumbe, and vnpreaching ministers, but with all such parrat preachers also, as being destitute of learning, discretion, and humilitie, haue rather boldened themselves to speake, than learned to speake to purpose. The canon of Gregorie by him cited, toucheth not those who haue entred into the ministration, being not sufficientlie qualified with gifts incident vnto it, but such as either indireallie, corruptlie, or vpon sinister and simoniaeall respects onelie, haue taken vpon them that function. And of such doe the next two allegations also by him brought, onelie speake. All the other which he throngeth together, sauing the two last, doe containe dangers and vpbraidings of such Bishops, which for their want of gouernement; or of their ministers, which for their dissolutenes of life, are scandalous and offensiue to others. Whome (how well soeuer qualified for learning) as it is meet to remoue from their functions, so is there nothing here brought, whereby it is likelie they will be moued willinglie to yeld of themselves, seeing euerie man is too parciall a iudge in his owne affaires. In the two last, where that prelate which cannot teach (for the word *Doctrina* is onelie vsed) is likened to a capon, and said to be no true prelat: We are to remember, that they are but the words of the glosse vpon the prominciall constitutions, and not belonging to any of the places quoted out of the decrees; and if they be vniformelie to be vnderstood with the rest, are meant onelie of Bishops. Vnto which two glosses, the one vpon the constitutions of Otho. and the other vpon the promincialls, he is greatlie beholding, for furnishing him with so great and so gaie a

I. q. I. c. si
quis neque.

Hye.

shew. Yet they serue him as men are vsed to be that take of trust: they are not so peremptorie for his purpose, as he would make it. For first they onelie speake of the prelates gouernement and conuersation, and not of his doctrine or preaching. That in the * first ranke calleth not the Bishop a wolfe, but saith, he is a miserable Bishop that seeketh to please wolues, for he cannot please both them and the flockes of sheepe. The * next likeneth not a prelat to a shamelesse dog, onelie for not correcting the faults of his children, but also for want of gouernement in himselfe, and for not bewailing his owne sinnes. That which followeth taken out of Augustine, is appliable to all men as well as to prelates, and sheweth how a doue that is a true believer may be discerned from a rauens, that is a filthy liuer. * Not euerie one that saith, Peace be vnto you, must be listened vnto as though he were a doue: the rauens are fed by the death of other things, this qualitie the doue hath not, which liueth of the fruits of the earth, and therefore his diet is blamelesse. The next is not found by any direction which he hath set downe, but he might haue alledged the gospell for it, speaking of salt that hath lost his taste. The * place ensuing next, is by him (following onelie his glosse) wrongly quoted. But if he thinke he may gather of that which the last glosse saith, of a prelates dumbenesse in teaching (which I haue shewed not to be alwaies coincident with preaching) that euerie minister is thereby of necessity to be a preacher: I am to saie, besides that which is spoken to the first section, * that Vnder the name of a prelat, the person of a church is not contained. The crimination and blame, which he laieth vpon our cheefe prelates for admitting any into orders, not enabled as he fantaseth, (if otherwise they haue discharged their duties as I hope) will easilie be answered when it shall please him to charge any in particular, *Loco & tempore congruis*, whereas being delin- red in this maner, it cannot serue to helpe the matter, but onelie to open the rankenesse of his stomach, and

* 83. diff.
c. nihil.

* 2. q. 7. c.
qui nec re-
giminis.

* c. non om-
nis ibid.

* c. in man-
datis 43. diff.

* Gl in Cle. 2.
de sepulchris
verbo pre-
lati.

by the contempt and obloquie of them, to wound the common cause.

17. Section. Pag. 29, 30, 31.



The author being now come vnto the maner of making deacons and ministers in this church of England, and pretending so good liking thereof, that he cannot endure the least trench aside in any small circumstance of it, seeking also to moue, be-

fore he hath taught or shewed any breach of the said order, and to the intent he might breed further attention, or else indignation in his readers, he putteth on of a sudden *Cochurnos tragicos*, and lothlie aduancing his speeches, swelleth in words like the Ocean, *Proiciens ampullas & sesquipedalia verba*. The occasion of all this stirre, is breafelie this: because When ministers are to be made, it is an action whereof deliberate consideration is to be had, and wherein when all is done (as it is imagined) that can be done, yet in truth there is (as he saith) nothing so nor so done. I doe easilie assent vnto him, that a maruelous great care in so weightie an action ought to be had. But that when all is done, as it is imagined can be done, yet nothing is so nor so done, is so deepe and inextricable a riddle for me to vnfold, that I must confesse my selfe herein Dauid, and not Oedipus: except I should thus gesse, considering the humour of the man else-where, that though all prescribed, were as exactly obserued as might be, according to the order there set downe, yet is it not such a forme of ordering ministers as it ought to be. If this be his meaning, whie should he be so incensed against those who breake that, which he himselfe misliketh? Or whie dooth he thus terrible exclaime, as though he would *Inclamare caelum, terram, & maria Neptuni*, against the breakers of an order either vngodlie or inconvenient: By the waie it is to be obserued, that the holie

An obscure
riddle.

The authoꝝ
nipping at
holie daies.

daies besides the sabboth, he calleth Their owne festiuall daies, intending as I gather by this contemptuous speech, that the obseruation of all such daies is unlawfull, and that they are not commanded by hir Maiesties lawes, but established onelie by the Bishops. That other daies, beside the sabboth may be commanded as festiuall by the christe an magistrate, the practise of the people of God, though straightlie bound to the ceremoniall and iudiciall part of the obseruation of the sabboth, as well as to the morall, which alonelie we are tied vnto, doth sufficientlie teach vs. For besides that God, who indeed is a law-giuer to vs, and not to himselfe, did command beside the sabboth, manie festiuall daies and solemnne times of holie assemblies, ioy and rest, (to let passe their ^a solemnities in the new mones or kalends, bicause in them they rested from no kind of labour) as namelie the ^b passeouer, the first and ^c seauenth daie of sweet bread, the feast ^d of first fruits, the ^e feast of pentecost or of weekes, the feast ^f of trumpets, the feast ^g of expiation, and the ^h feast of tabernacles; diuers also were instituted and commanded to be kept by holie men: as the ⁱ feast of dedication of the temple by Salomon, at the ^k dedication also by Zerobabell, the feast of dedication ^l of the altar vnder Iudas Macchabeus, which being in winter, is thought to be the same feast of *Emilia*, or dedication which Christ honoured with his presence in the tenth of Iohns gospel, the ^m feast of mourning for the daughter of Ieptha, the ⁿ feast of fire, the ^o feast of Iudiths victorie ouer Holophernes, the feast ^p of lots, and the feast of victorie ^q ouer Nicanor the king of Syrias generall capteine. And if the lawfulness to command such being granted, it shall neuer thelesse be thought no such thing amongst vs to haue force of law, (as I haue heard it to haue bene moze confidentlie than truelie auouched by some) such as to knowe, that both the statute 1. Eliz. cap. 2. doth establish the said daies, and that hir Maiestie authorised by the said act, hath authenticallie ratified long ago by hir royal

^a Num. 28.

² Paral. 1.

² Paral. 8.

^{Esdr.} 2.

^{Isai.} 1.

^b Exod. 12.

^c Leuit. 23.

^d Deut. 16.

^e Leuit. 23.

^f Leuit. 23.

^g Num. 18.

^h Deut. 16.

² Macca. 12.

ⁱ Leuit. 23.

^l Psal. 80.

² Leuit. 23.

^{Leuit.} 16.

^{Hier.} 36.

^h Leuit. 23.

^{Num.} 29.

^{Deut.} 16.

^{Neh.} 8.

¹ Reg. 8.

² Paral. 7.

^{Esdr.} 6.

¹ Macca. 1.

^{Iohn.} 10.

^m Iud. 11.

² 1. Macca.

^o Iud. 16.

^q Either. 9.

^{Joseph.} li. 12.

authoritie to be shewed, both the fasts & festiuall dates set
downe in the vulgar kalendar prescribed befoze the booke of
common prater. Neither is this circumstance of a sunaie
or holie daie spoken of in the bodie of the booke of The
forme and maner of making and consecrating Bishops,
priests, and deacons, but in the p̄face onelie; neither is it
there spoken of other, than of Admitting a deacon: neither
yet there, or in him is it necessarilie required, but onelie it
is said, that The Bishop may vpon a sunaie or holie daie
admit such a man so qualified, as is there prescribed, a dea-
con. The other circumstances by the authoꝝ set downe,
which he thought he might carrie a waie in a cloud with a
streame of words, as of Churches being destitute of a pa-
stor, of a solemne assemblie, and conuocation of the chee-
fest of the gouernours of the church, to be gathered togi-
ther in the cheefest citie of the diocesse, to present, &c: are
required without booke by our authoꝝ, and are belike some
part of another platfoꝝme, which he mistooke in steed of this
church of Englands order. But if he inforce those words
of the statute 8. Eliz. confirming the said booke, And shall
from hence-foorth be vsed and obserued in all places with-
in this realme, foꝝ the necessarie obseruation of euerie cir-
cumstance arbitrarie afoze: then must we desire him to
rub ouer his logike and his law, and to remember that
herein we must *Reddere singula singulis*, that such things as
were of substance in the booke, and such as were of cir-
cumstance or arbitrarie solemnitie, are not hereby alte-
red, but are to be taken in that nature now, as they were
befoze in the booke. As concerning the qualities requisit in
one to be admitted a deacon, I maruell he will number
that which refresheth in experience afterward, and which the
partie is to promise in time to come to perfoꝝme; to wit,
To be diligent in his calling, as a thing to be weied befoze
his admission. And if by the circumstance of Calling, he
thinke may be inferred anie *χειροτονία*, or popular election,
or any other deuise whatsoeuer, more than an inward good
C.ij. motion

Corruption
of the booke.

Falsificatio
of the booke.

Follie in the
authoꝝ.

Falsificatio.

motion of the partie, he may be conuincied sufficientlie by those words, Shall present such as come to the Bishop to be admitted. The circumstance of being presented by the archdeacon, although at solempne and set ordinations it be most vsuall; yet is it not of such necessitie, but that it may as well be omitted, as the Bishop may ordeine one alone, when there is no more, though the words of presenting do run in the plurall number. To which effect it is also said in the preface, that the Bishop knowing either by himselfe or by sufficient testimonie any person to be a man of vertuous conuersation, &c, may admit him, &c: so that the circumstance of Presenting is not of any substantiall forme of the matter. In reckoning the offices of the deacon, our autho^r omitteth this limitation, In the church where he shall be appointed, also to baptize and to preach, if he be admitted thereto by the Bishop: and this likewise to serch for the sicke, poore, &c: Where prouision is so made, as not seruing belike so fittlie his turne as he wisheth. Whereby we may gather, what libertie this man (who findeth such fault with other, for omitting such and so manie requisites as he fanciesh) doth yet permit vnto himselfe to leane out of his owne distributions.

18. Section. Pag. 32, 33, 34, 35, 36, 37.



At of a part of the forme of ordering priests, in this section our autho^r thinketh he hath obserued two Principall points for his purpose: one, that The minister chargeth himselfe to teach and instruct the people committed to his charge, with the doctrine of holie scriptures, and this he passeth ouer by a briefe: The other, which deserued with him a marginal direction, is, that The Bishop bindeth him, as well to minister the discipline of Christ within his cure, as the doctrine and sacraments of Christ, &c: and that therefore [the minister

ster may as well admonish, denounce, and excommunicate offenders within his charge, as a Bishop may within his diocesse. The first whereof pertaineth to teaching, required of the minister, although it pꝛoue not a necessarie coherence of preaching with the ministerie, seeing manie besides preachers, as the father, the maister, and the householder, are to teach and instruct in godlinesse, those who are of their charge: yet is it more peculiarie incident to the treatise here in handling, than the other obseruation concerning discipline. But shall we saie that this man is well advised, in seeking to inspire euerie minister with a power to execute all discipline in the church, and that by law now in force: when as in a peculiar treatise of this booke, he labourerh to pꝛoue that by law Excommunication by one alone is forbidden; whereby he pulleth downe with one hand, that which he built with the other, and sheweth himselfe either verie forgetfull, or passing inconstant. And hereupon I would be resolu'd by the authoꝛ or some other, whether he thinke this endowment of euerie minister, with the execution of all discipline, admitting but not granting it to be so by law, to be a conuenient policie, for the vnitie and quiet of the church: And whether he himselfe had not rather be vnder the forme now in practise, in regard of his owne contentment, than vnder the infinit dictatorship of his owne minister: Or else, whether should appellations from the iudgement of the minister in this respect be allowed of, and whether to the Bishop, or to whome: And whether the Bishop by this interpretation of law, shall not retaine his authoritie of executing the discipline of the church vpon euerie particular minister, and in euerie seuerall parish as aforesaid, seeing the authoꝛ saith As well as the Bishop in his diocesse? And if he shall, what if the Bishop vpon good cause, and for abusing of the authoritie, shall suspend the minister from his iurisdiction of executing discipline: Is he not at the same point he was at before? And what if the Bishop himselfe dwell in the parish, who shall

The authoꝛs
contrarie.

then haue the preheminence : And what if the ministers discretion serue him, vpon some small or surmised cause to excommunicate some great p^{er}re or noble counsellor of his parish, whose indignation may turne the whole church to great misch^{ee}se : Or to proceed against his patrone, who peraduenture hath a bond of him to resign^e : As manie couetous cozonants and Nimrods haue in these dates, whereby the ministerie is more enthrallled to the corrupt deuotion of one man, than by all the lawes that any waie may concerne them. The author seemeth to me to diuide the discipline of the church, which he would intitule euerie minister vnto, into admonition, denuntiation, and excommunication. If by denuntiation, he meane the publishing of excommunication done by himselfe, then is it a part thereof : if (as I rather thinke) he meane the second degree of proceeding vpon faults not publike, specified in the 18. of S. Matthew, then is this common with the minister vnto all other christians, euen as admonition is being the first degree. And where the minister is the partie offended, and hath not preuailed neither by his admonition in priuate, nor his denuntiation before two or thre^e; to whom shall he tell it in the third place, where he himselfe hath the authoritie to excommunicate : But the power of binding and loosing, according to the word of God, and the censure of reprobuing and sharpe rebuking of publike offenders, which doe conteine indeed the whole discipline, ment to be attributed by this church of England vnto priuate and inferior ministers, whie are they left out in this place : And whie did he not also yeeld vnto euerie minister, as well as excommunication, the censure also against obstinate heretiks, and of anathematisme, supposed (by the best interpreto^{rs}) to be a higher censure than excommunication, and vsed when all hope of amendment is gone : And touching his second question, whereof onelie (as it seemeth) any doubt is made, Whether the doctrine, sacraments, and the discipline be to be ministered simplie, as the Lord hath

comman-

commanded, or else whether they be to be ministred one-
lie as this realme hath receiued the same without the com-
mandement of God? I saie, that as this question is con-
tumelious to this whole church, by insinuating a iarre in
those points to be established by our lawes, with The com-
mandement of God: so is it a verie captious and sophi-
sticall question *A diuisione*, because he diuideth those things
that not onelie the booke hath ioined together, but he him-
selfe within ten lines afoze, vpon the like copulatiue con-
iunction, byged the like concurrence of two other seuerall
members in this selfe-same sentence. And for answer to
the question, I doe affirme that these three are to be mini-
stred, both as the Lord hath commanded, and as this
realme according to the commandements of God hath
receiued the same. So that the one of these clauses shall
not be vnderstood, either to [limit or restraine:] the other
as he vnskillfullie thinketh may be objected, nor yet Dispo-
sitiuelie, as though the law ment by authoritie hereof to
establish that the order in these things by the realme recei-
ued, should be holden as agreable to the word of God: but
must be taken Enunciatiuelie, to declare and affirme (for
the further incouragement and comfort of those who are
to minister these things) that following the order by law
established, they shall doe agreable to Gods will. Not that
it is to be thought that euerie ceremonie, forme, or circum-
stance about these three things, are either in particularitie
deliuered in scripture, (as this man hath not alone absurd-
lie fancied) or that therein either this church or anie other
is or can be tied to any such certeine exact forme *In hypo-*
thesi as we terme it: but that certeine generall rules for
ceremonies and gouernement, being there set downe,
euerie church is to followe the said rules, in such particular
maner as they shall iudge (all varietie of circumstances
weied) to be most fit for the edifieng and gouerning of that
people. For iudgement whereof, I thinke that waie surest
to follow, which hath had the best proue and experience of

Inconstant
dealing in
the author.

Articles of
religion.
34. art.

The author's
flaunder of
the whole
estate.

A seditious
asseveration
of the author.

profitablenesse, by longest continuance of time, and purer
antiquitie, so that it be sure, no commandement in the
word to be to the contrarie. And whereas he concludeth,
though without premisses, that A Bishop and a minister
ought to minister the discipline of Christ, as the Lord hath
commanded, though the lawes of the realme should not
haue receiued the same, & afterward in plaine terms saith,
That our discipline vsed in the church of England, is not the
same which the Lord Christ hath commanded: he doth first
suffise that slander of this church, which his question afore
did insinuate. Secondlie, he directlie contrarieth both that
which the booke by law established, & which he himselfe had a
little before affirmed in these words, That the discipline is
to be executed by the Bishop, as he hath committed vnto
him by Gods word, & as he is appointed by the ordinance
of the realme to execute. Lastlie he hereby both giueth li-
bertie to Bishop and minister, to vse what forme so euer of
discipline shall seeme to them grounded vpon Gods word,
and doth as it were crie an alarum to all men, to oppose
themselues against the discipline of this church, as wicked
and not agreeable to Christs institution. But let vs a little
examine his proofes, whereby he goeth about to infer, that
The discipline of the church of England is not according
to the commandement of Christ. The first reason, that he
appeareth by the word of God: and likewise the second,
that it so Appeareth also by the discourses written by the
learned to and fro, are two childish fallacies, *A petitiōe
principij*, proving a thing in doubt by a matter as much or
more doubtfull. For who being of a contrarie opinion, will
not straight tell him, that his proofe is as euidentlie false
as his conclusion. That which is said of The discipline of all
reformed churches, maketh more against him than he is
ware of. First, more reformed churches come neerer vnto
our outward policie, discipline and ceremonies, than those
are in number who seeme to dissent from vs. Again, few
or no reformed churches, especiallie of severall nations or
domi

dominions, doe sumpe in one externall policie of discipline
or ceremonies. And whie is it not as lawfull for vs here in
to differ from them, as for them to differ amongst them-
selues? And how is it possible if such a set forme (as is pre-
tended) be set downe in scripture, that they all differing so
much one from another in externall policie, should all be
ordered therein according vnto the commandement of
Christ: and thus to be brought as a squire to leuell vs by,
who are alonelielike in his fansie wide from the right
discipline: whereas I see no cause in any respect, whie they
should not rather take light of vs, than we of them. That
which he speaketh of maister Nowels catechisme, is verie
generall, and requireth the perusall of the whole booke. But
I suppose this to be the place which he meaneth, where to-
ward the latter end of the booke he saith: In * well ordered
churches a certeine forme and order of gouernement was
instituted and obserued, certeine elders, that is to saie, ec-
clesiasticall magistrates were chosen, which should reteine
and practise ecclesiasticall discipline. And doth our autho-
r thinke that this man here doth meane their laie presbyte-
ries neuer heard nor read of from the beginning of the
world, till within these fortie yeares or little more, bicause
he nameth them ecclesiasticall magistrates? A sole fansie
eth that bels doring and almost speake anie thing where
with he is delighted. Or could he gather, that maister
Nowell here condemneth our churches discipline, as not
agreeable to that which Christ hath commanded, if he had
directlie said that in some well ordered churches an order
of discipline differing from ours is obserued? Doth this
follow; Some well ordered churches differ in some points
of externall discipline from our church, Ergo ours is not the
discipline of Christ? Then by this reason should no refor-
med churches be said to reteine the discipline of Christ,
or to be well ordered, manie of them vpon diuersitie of oc-
cassions differing euen from themselves before, and euerie
one in some point or other differing among themselves.

Are

* pag. 652.
gracolas. Ca-
sch. 1573.

Are all the churches of Denmarke, Sweueland, Poland, Germanie, Rhetia, Vallis, Tellina, the nine Cantons of Switzerland reformed, with their confederates of Geneva, of France, of the low countries, and of Scotland, in all points either of substance or of circumstance, disciplined alike? Nay, they neither are, can be, nor yet need so to be: seeing it cannot be proved, that any set and exact particular forme therof is recommended vnto vs by the word of God.

Ibid. pag. 16. And therefore maister Deane of Paules, in the said booke saith, that one end of so manie counsels gathered so often in the primitiue church, was this, to make canons, For the externall gouernement of the church, which had not needed, if such a perfect platfome had bene deliuered thereof in scripture, as some men vainelie blunder about. And I verelie doe perswade my selfe, that he being a man yet liuing, and well knowne to be farre from anie vnreuerent opinion of the state and policie of our church, wherof he is no inferiour member himselve, and being best able to interpret his own meaning, would if he were demanded, quickly conuince this man of factious and slanderous wrangling and racking of his words. And seeing he obiecteth vnto vs the president of reformed churches in matter of discipline, let him first by some profe out of scripture, or ancient writers approue vnto vs, if he can, the debarring of the ciuill magistrate from all gouernment in ecclesiasticall causes, and a presbyterie or seignorie consisting most of laie persons; yet both of them practised by some churches, which he and his clients most admire: and as he shall deale in these, he shall haue more of our worke of like nature, which peradventure will trouble the scones of all the new discipline-framers we haue, to auoid by good and substantiall proofes. Now vpon the quite overthrowe (as he wéeneth) of the discipline of this church of England, he laieth forth in behalfe of all inferiour ministers, an action of wrongfull detinue (so I thinke he will not

not saie, it is but nouell disseisine) against Our Bishops and archdeacons, for challenging all punishing of malefactors within their seuerall iurisdiccions. If it be their iurisdiction by law, why may they not so doe? Forsooth because They permit not the minister to exercise any discipline at all. Yes truelie, as was touched afoze, they doe and may execute the discipline of declaring by doctrine according to the word of God, mens sinnes to be bound or loosed, and the censure of rebuking and reprimouing openlie those that doe freeze in the dregs of their sinnes, which are not the least parts of discipline: which is as much (for auoiding of intollerable inconueniences which otherwise would ensue) as is expedient to be attributed vnto euerie one, and so is it all which the law doth enable them with: as may be easilie gathered out of the verie same demand of the Bishop: for at the latter end thereof it is said; So that you may Teach the people committed to your care and charge with all diligence to keepe and obserue the same; so that the discipline which the minister is to execute, reacheth no further, than to Teach his parish with all diligence to keepe and obserue so much of the doctrine, sacraments, and discipline of Christ, as apperteineth to them. And if no especiall preheminance might be attributed in matter of execution of discipline to one minister aboue other: why is it said by S. Paule, excommunicating, the incessuous Corinthian, *Absens decreui*, being absent I decreed, seeing they had ministers of their owne, and willed the denuntiation of the said excommunication afterward to be done openlie in the church: And at the time of his absolution, Paule being absent saith, To whom you forgive any thing, I forgive also. Likewise speaking of the anathematisme of Hymenæus and Alexander: I haue giuen them bp vnto sathan, not naming either their owne minister, or anie segniorie. But we must yet a little followe our authoz leaping backe for Another reason, to proue that This statute hath appointed the discipline of Christ

1. Cor. 5.

1. Tim. 1.

Christ to be ministred as the Lord commanded onlie, and none otherwise: which we will easilie grant him, vnderstanding it in a generalitie, & not as though euerie particular ceremonie, rite or circumstance of externall policie, if they had bene (as they are not) in scripture mentioned (but being not commanded) were at an inch to be followed. For else how could the primitive church without any prescript word (I do not onelie saie haue brought in a new ceremonie) but haue altered the sabboth daie by Gods appointment at the first, and being our saturday, vnto the first daie of the weeke in scripture twise or thise called the Lords daie, and with vs sunday: or yet the time of receiuing the sacrament of the eucharist, being according to the institution vsuallie receiued after supper, to haue it receiued as it is in the morning fasting: His reason for the prooue of this conclusion I gather by thus: If this part of the booke do not abrogate all discipline vsed in time of poperie, amongst the idolatrous priests, as well as their false doctrine and prophanation of the sacraments, then dooth it ordeine nothing: but it dooth ordeine something, or else it were an absurd law: *Ergo*, it abrogateth discipline vsed in poperie. If this conclusion were granted, yet his matter he hath in hand would not herevpon be proued; to wit, That therefore discipline is no otherwise to be ministred, than the Lord Christ hath commanded. But I haue shewed afoze this pinoe to be false, and that those words of the Bishop do not dispositiuelie ordeine or abrogate any thing for discipline, more than they do for the doctrine or sacraments which were prouided for by other acts, and not by these words, which were indeed absurd once to be imagined. Also his pator foloweth by no consecution: for it might haue bene that those words had ordeined something, and yet not to haue abrogated all the discipline vsed in poperie, except it had by him first bene shewed, that the same was contrarie to the commandement of the Lord, and otherwise than this realme hath receiued it. Which being

ing not proued, we may conclude, that he hath in all this section plaid vpon the *Petitio principij*, a fallacie not fit for his person pretending some learning, and too plaine for a man to be ouersene in. And therefore in his conclusion hereof, he might haue spared his vehement expostulation of [Open wrong, and intollerable iniurie by the cheefe prelates, for denieng to the saints of God, the discipline they call for, &c.] But if he meane the discipline passiuelie, I thinke he and his felow saints haue had some wrong at the cheefe prelates hands a great while. If actiuelie, that euery minister without checke might haue the execution of all discipline in his owne parish, I doe verelie beleue, that this man and others, who so earnestlie call for they know not what, if they might not be themselves also elders, ancient, or what you will, sauing priests of the segniorie, would be the first wearie of it. For if I knowe their disposition any thing, they are as impatient as any men, to be at controllement, and most of all by a worse minister.

A proud and insolent terme, full of pharisaical contempt.

19. Section. Pag.37, 38, 39.



The question heere asked, whether It was the meaning of the parlement, that the Bishop should command an apothecarie not exercised at all in the holie scriptures, and altogether vn- able to teach, to be notwithstanding a faithfull dispenser of the word of

God, and to take authoritie to preach? hath a verie readie answer, that it was not their meaning, that any Not exercised at all, and altogether vn- able, should so be com mand ed or authorised. Neither yet is it to be gathered hence, that they ment to haue none admitted, hauing otherwise competent gifts of learning, and reasonable trained in the scriptures, but such as could discharge the dutie of a preacher, as this man else-where would inforce. For to what purpose then should that limitation haue serued, which

which the booke addeth (but our author passeth ouer as though he saw it not) to wit, To preach the word of God, and to minister the holie sacraments in the congregation where thou shalt be so appointed? **The second question,** Whedier their meaning was to bind the minister to performe by himselfe this dutie to preach, or that it should be done by a third person; I take may truelie be satisfied thus: that neither the minister if he be not able, and therefore not authorised well to discharge that great worke of preaching, should himselfe preach: neither yet if he were authorised, and no other impediment hindering, that he should loiter himselfe, and pass it ouer to another. And therefore he might haue spared to haue alledged his two texts, as one and with one quotation, being no more to purpose, but that he ment to disport himselfe a little with his [Maisters the doctors of the canon law,] which elsewhere he saith haue by ordinance long since bene inhibited from taking any such degree, and Doctors of the ciuill law: Burgeses in the house of parlement. Truelie his skill in law appeareth to be so little, that a verie doctor Buzbie might well beseme to be his maister in law; and yet his memorie is so fickle, his inconstancie so great, his passions so furious, his pen so slanderous, his mind so haughtie, and his words so virulent in this booke, that an honest quiet man, though he were not troubled with parlement matters (as this man is) wis more than becommeth him) would be loath to be troubled with such a headie scholar. The other member of this text alledged out of the *s. si quis alium instituit. de inutilibus stipulationibus*, if he had not taken it out of some summarie by retaille, as appeareth both by his receding from the words of the text, and by iumbling two texts in one, would haue put him in mind, how little it maketh for his purpose. If a man (saith the law) haue solemnlie promised to procure that Titius shal giue so much, he is thereby bound: though if he promise that Titius shall giue so much the stipulation be void. **The other examples**
brought

Pag. 240.

*W. d. m.**- Hand 1 m. l. 2.**5. 2.*

brought by him, being so by the first disposition tied to one person, that it is not sufficient to haue them done by another, do not proue generallie, that where anie person is appointed for the performance of a matter, that it must be done by himselfe personallie, no not alwaies where the industrie of the person is especiallie elected, as appæreth in our Sherifs though personallie sworne, yet allowed by law their vndersherifs. And the ciuill law saith: He * seemed to haue delt in a gardianship of a ward or pupill, that hath delt in it by another man. And * againe: We are to take it, that he is said to haue bought, which hath bought by another man, as peraduenture by his attourne. And therefore though it need not be so said in this place, yet these his allegations notwithstanding, a minister might haue performed this dutie by him undertaken, by a third person lawfullie. But here the minister is onelie to promise to Preach if he be so appointed. And the Fourth iniunction addeth herevnto, that if he be licenced herevnto, he shall preach in his owne person at the least euerie quarter of a yeare one sermon, for the which end, the Ordinaries in most places do require of such as be not fit to be licenced to preach, that they procure such dutie to be done by another, which is able to performe the same, and is licenced according to order. Where he asketh, Whether the meaning of the parlement were to haue the Bishop iudge the reading of homilies to be preaching, it may be said that reading of homilies in a strict signification cannot be accompted preaching; yet they serue to edifieng, and are a kind of publishing the Lords will, euen as well as a sermon being penned, is, and vttered forth vnto the people: and they were not by the Bishops, but by hir Maiesties owne authoritie and instructions vnder the great seale of England, recommended vnto all Ordinaries to see amongst other things, that all ministers being no preachers should read them in supplie of sermons, for the banishing of ignorance & blindness. And therefore I doe the more maruell why our authoꝛ should aske

* l. §. ita ad-
tem ff. de ad-
min. & peri-
cu. iur. §. quod
si quis.
* l. 22. non so-
lum ff. de li-
berali causa.

Reg. inim.
act. 4.

Inim. 17.

aske this question, Whether the Bishop may commit the office of reading homilies to a minister, and so confidently lie to auouch that he may not: One reason for prooue of this he bringeth; seeing Three kinds of offices are appointed to be in the church, deacons, ministers and Bishops: euerie officer hauing his seuerall dutie expresselie appointed, as reading homilies, to be the office of a deacon: that therefore One priuate man and fellowe-seruant may not transpose from his fellowe-seruant, an office committed vnto him by publike authoritie, which he inforceth by this, that Statute law is *stricti iuris*, and may not be extended. Here I will also aske him a question, seeing his worship will not permit to His lordship, that which no Bishop neuer went about to doe of his owne head and authoritie; Whether doth he permit vnto his Maiestie (notwithstanding this distinction of offices and strictnes of Statute law which full wisely he alledgeth) any power to take the reading of homilies, which he will needs appropriate to a deacon, and to laie it also vpon euerie minister? If he will be so good vnto his Highnes, as to grant him this libertie, it may please him besides the fourth inunction before alledged to peruse the 27. and 53. inunctions, where expresselie all parsons, vicars, and curats, are inioined to read some homilie when there is no sermon, whom I trust he will not therefore conclude, either to be all deacons, or to transpose without authoritie the office of their fellowe-seruant vnto themselves. But to tie the reading of homilies vnto deacons, is so farre from all apparance or colour of truth, that in the selfe-same place, where he curtailed rather than abrogged the office of the deacon, the booke setteth downe: that it is a part of the deacons office to read holie scriptures and homilies in the church, Where he shall be appointed to assist the priest, not thereby that the priest is excluded from reading scriptures and homilies, if he so thinke good, or be commanded, and therefore much lesse where no such deacon is appointed to assist the priest. And if this new topike
place

place were allowable, then hereof we might reason thus: Bishops (as this man hath confessed afore) by the ordinance of the realme are to execute discipline; *Ergo*, the inferior minister being another distinct officer, may not transpose it to himselfe, as in the other section he auouched. Also, ministers are to preach; *Ergo*, Bishops being of a distinct office may not preach, contrarie to all that which afore he hath spoken against dumbe prelates. Againe, Deacons are by their office by law set downe to instruct the youth in the catedrisme, to baptise and to preach, if they be admitted thereto by the Bishop; *Ergo*, ministers being a distinct office from deacons (and statutes being stricte to be interpreted) are neither to catechise, baptise nor preach by his owne doctrine, and where is then his learned minister? And therefore I take it that I may safely conclude without offense to his wisdom, that either here he doated, or else he hoped his readers would be such affectionate doctors, as that he might with any shew or vizard of likelihood as here, or by racking, wringing, wresting, and curtailing, as in diuerse places else-where, without their further looking vnto him how plainelie he dolte, easilie abuse them.

his argument retorted against himselfe.

20. Section. Pag. 40, 41, 42, 43.



Now in this section to make the matter in his behalfe seeme more probable against the Bishop, he frameth a filie answer (God wot) in his name, that Seeing by statute he onelie hath authoritie to make deacons and ministers, and to gouerne them, that therefore it becometh a minister no otherwise to preach, than as he shall be licenced therevnto by him the Bishop. But yet bicause this fiction was so apparentlie improbable, he was content also to temper it thus, Otherwise than according to the forme of the booke. And indeed

I cannot see, but that this may and ought to staie any from enterprising to preach in a settled church as this is, sauing such fanaticall spirits as will shoue them-selues into the office of preaching, without any externall and lawfull calling: seeing that in this church of England, this booke is the onelie externall forme we haue, of calling men into any function in Gods church. Now touching the former matter, Whether the Bishop might commit the reading of homilies to the minister, because our author warilie foresaw, that both the iniunctions and aduertisements published by sufficient authoritie, would to this purpose be alleged: he seeketh to vntie that knot thus. Because That (he saith) which was confusedlie and indistinctlie appointed in them to be done by parsons, vicars, and curats, whereof (as it fell out) some were deacons, and some ministers; is now by this statute made 8. Elizabeth, after both the other bounded and limited so, that euerie proper office should be allotted to his proper officer. But by the way he scattereth a riddle as he runneth, when he saith; The iniunctions, aduertisements, articles, and this statute dooth bound and limit the meaning of the iniunctions and aduertisements: yet I thinke he meant onelie, that the statute bounded the meaning of the other two: and therefore she was to blame that taught him so long to go, before he had learned to speake well. For the vnt ruth of this allotment of euerie peculiar function to his proper officer, although some are peculiarie tied vnto one, and not attributed to any other, I referre the reader to the booke it selfe, and to that which was said in the last section. And so I doe this, which a little after he gathereth, *Ex vno absurdo quasi concessio*: That the office of the deacon is onelie to read the scriptures and homilies by that statute. Now to open more fullie the vnt ruth of this surmise, as though the statute 8. Elizabeth, ment to redresse reading of homilies by ministers, thorough making a more orderlie distinction of offices than afore: you shall perceiue by perusall of the bodie of that statute

Untruth.

and

and preamble, that the forme and maner of making and consecrating Bishops, priests, and deacons, was not deuised then anew, but was put in vze and establisshed in the daies of king Edward. And though *Ad maiorem cautelam*, for the auoiding of cauits, of traitorous and slanderous papists, the same booke was then establisshed by that act of parlement, yet doth it in the preamble thereof, by manie reasons proue, that the said booke had the force of law befoze. And therefore it is verie propheticall for that booke, which was penned in king Edwards daies to Bound, limit, applie, and distinguish offices confusedlie deliuered by hir Maiesties inlunacions and aduerttsments, which were long after framed. And where our autho: had said, that A minister must minister the doctrine and sacraments, and discipline of Christ; what needed he to haue added And preach onelie, if (as afoze he would haue inforced) vnder Doctrine or teaching, preaching be necessarilie alwaies employed? But afterward, vpon better rubbing of his memorie, he telleth vs, his meaning is not to Exclude the minister from reading the scriptures, and praieng with the people: duties without which preaching cannot be done. If by reading the scriptures, he meane the ministers priuate studie; then he reasoneth not *Ad idem*, which is ignorance of the *Elench*. But if he vnderstand the reading of scriptures in the church, then I see no cause whie by his owne platforme, the minister should read any scriptures there, besides his theame for his sermon: naie, how can he read any scriptures, when the deacon hath read them all afoze? And if he will needs read the scriptures publikelie, whie should he be suffered (by this mans construction) to inuade The deacons proper office, and to transpose it to himselfe? And therefore the copie of the supplication and submission of the Bishops, which he hath here drawne in their behalfe, as though through their [Abusing of hir Highnesse lawes] no meanes according to law could be found, for reading of homilies, where the minister is no preacher,

J.ij.

but

Articles of religion.
art. 36.

Contrarie-
tie of the au-
tho: vnto
himselſe.

but by a deacon; he may well spare till they haue need of it: at which time peradventure they will procure a better cleark than he is to pen it. Yet here in also either he or his printer hath vsed a prettie cunning, by prefixing thereto a Latine beginning, and vsing for five or sixe lines an Italian letter, differing from the other Romane, beelike to the intent that some simple credulous creature might beleeue this to be an allegation out of some law, which are vsuallie printed in this his booke in the same letter. The other reason which he bringeth for further prooue of this incompatible distinction, of that part of the deacons office, which is in reading of homilies, from the ministers office, as I conceiue it, is to this effect. All things about the ordering of the minister, tend to admonish him of his dutie in teaching and instructing the people, and in preaching: But the whole action of ordering deacons, tendeth to admonish him of his office in reading: *Ergo*, a minister may not be forced to read homilies in the church. First neither part of his antecedent is true. For the first part is proued false both by the booke it selfe, not naming at any time in the ministers office Preaching, but with this limitation Where he shall be so appointed: and by the author himselfe, labouring in one whole section to proue that the minister hath also the execution of discipline committed vnto him. And shall we forget (as he dooth) that he is authorized also to minister the sacraments: The second part is euen as true as the former, both as is shewed out of the booke afore, and by the authors confession within sixe lines after, where the saith, The prouision for the poore is appointed also vnto deacons. Besides all this, the argument followeth not, as is euident; because the booke it selfe attributeth two or three scuerall duties or functions to two or three scuerall offices. As to baptize, to deacon, minister and bishop. To preach, to them all three, so the two first be licensed, to minister the sacrament of the supper, to the minister and Bishop: and if we may beleeue our author, the execution

The Abstractor contrarie to himselfe.

Pag. 33, 34.
35, 36.

on of discipline to them both. And whie therefore may not a minister read homilies, as well as read scripture in the church, though both they be in some sort required of a deacon, if he be by the like authoritie of law commanded therunto, as hath beene proued afore that he is? And where our author here further saith, that The parlement house had a singular care to haue these offices of minister and deacon, euen as they are distinguished by the law of Christ himselfe, it is a testimonie, that in those two great offices, the externall policie of our church is according to the commandement of Christ, in this mans opinion.

21. Section. Pag.43,44.



Our author hauing laide downe before, that the booke of ordering priests and deacons, requireth of euerie minister to be a preacher, and foreseeing a storme towards him, chooseth rather to be conuicted of falsifieng than of this falsehood. For where the booke prescribeth, that it shall be said to euerie minister to

be ordered, Take thou authoritie to preach the word of God, &c: in the congregation, when thou shalt be so appointed; he leaueth out the most materiall word, so, of limitation, and falleth to descanting vpon the signification of When and where, to diuert our eies from espieng of the other foule corruption. Although if he were so great a clearke in law as he would seeme, he could not be ignorant that *vbi* sometime importeth time as well as place, and also implieth a condition with it: as if a man giue a legacie to his daughter by these words; *vbi* ea nupsisset, Where she shall be married: it is to be vnderstood saith the

*glosse there, That is, after, or when, or if she shall marrie. And thereupon * Bartolus noteth, that the aduerbe *vbi*, where, doth imple a condition. But if it had not beene

Manifest
falsification
on by the
author.

* Glin l.45. ff
ita sit scrip-
tum §. finali
de legatis 2.
& Bartolus
ibid.

* Adde Bar-
tol. in l. 1. ff.
de condit. &

*demonstr. mi.
19. & Bald.
in l. 3. C. de
probat. ver.
sequitur de
& Oldrad.
conf. 47. con-
fuerit dubi-
tari.*

the mind of the law-makers by these words So appointed, to reſtraine them from preaching, without further approbation vpon triall of their abilitie thereto: then both in vaine had the word So bene vſed, and with better ſenſe might haue bene leaſt out, which in ſo ſhort and ſo principall a ſentence of this action is not to be imagined to be ſuperfluous: and alſo the word Appointed without a further word, as To ſerue or ſuch like, would haue made no perfect ſentence: and therefore muſt needs be vnderſtood, like as the generall vſage ſince, *Quæ eſt optimus legum interpres*, doth interpret, that they haue authoritie giuen them To preach where they ſhall be ſo appointed. Neither in vaine is preaching ſpoken of at their firſt ordering, both to put them in mind what ought to be their principall endeauour, and to giue vs to knowe, that as mere laie men be not enabled to this office, ſo it is not conuenient that a licence to preach be giuen vnto any, but to ſuch as being in ſome function eccleſiaſticall, haue addicted themſelues to ſerue the church according to their abilities, in all the functions incident to that calling.

And whereas he doth alledge, that if this ſenſe, which he inſereth, Were not the naturall meaning of the ſtatute, then to adminiſter the ſacraments might as well be forbidden without ſpeciall licence in writing. I anſwer that though at the ordering, authoritie to preach and to miniſter the ſacraments be giuen, according to the limitations there ſet downe, yet hereby they are not hand ouer head, where it pleaſeth them to ruſh into other mens charges, but are to expect a licence in writing to bound them, where they may lawfullie adminiſter the ſacraments, which is done by letters of collation, inſtitution, or donatiue temporarie or perpetuall. And thus he ſaith, there is ſo much to helpe our turnes, beſides the canon law, that he thought it beſt to leaue ſome of it out for his more aduantage.

22. Section. Pag.44,45,46,47.



Et, bicaufe he feeth the coaft is not cleare, by reason as well the * ca-
non as his Maiefties iniunctions be-
fore alledged by me, doe require a spe-
ciall licence to authorife a minifter to
preach, yea euen in his owne cure; he
tellethe vs a tale (not of a rofted horfe)

*c.excommu-
nicamus vlt.
S. quia verò
Ext de here-
ticis.

but of his owne graie ambling gelding, which he could
giue vnto me if he would, onelie by giuing me the keie of
his paffure, and bidding me to take him vnto mine owne
ble of his gift. But what if he fhould adde alfo & faie; Soft
ferra, are you gone fo fone? my meaning is not that you
fhall take him away, or haue any ble of him, except vpon
your defert I fhall thinke good to ratifie this my gift vnto
you vnder my hand and feale hereafter: may I (thinke
you) herevpon be fo bold, as of mine owne head before I
haue his hand & feale, to breake open a gap in the hedge,
and ride alwaie with him: Truelic how he would take it
I know not, but I feare me my miftrefle his wife would
thinke me verie haftie, vpon fo slender a warrant to ride
alwaie with his grate ambling gelding, and peraduenture
I fhould fare the worfe at his hand alfo for my fatching.
Whereby he may fee, that this is but a Wreft of a goofes
quill, indeed not fit to fet thefe Iars and ods in tune accor-
ding to his purpofe, which differeth *Δις ἑξ. πρὸς αὐτὸν* from
the true meaning of the canon and iniunction. The reason
he bringeth, is onelie By the licence to preach, authoritie
therevnto were giuen, that then the making of a minifter
without a congregation, fhould hereby be committed vn-
to the Bifhop, doth no waie follow: feeing that preaching
is neither the onelie office of a minifter, neither doth the
boke of ordering, authorife fimplie euerie minifter as a-
fore hath bene fhewed, but fuch as fhall be So appointed,

*Art.8. in-
iunct. R. g.

whereof the^e iniunction declareth the particularities: for

f. iiii.

how

how can it appere to others that he is licenced, but by writing: And in like sort is that reason out of the Eight injunction. Bicause ministers are inioined to suffer no man to preach within their cures, but such as shall appeere to them to be sufficientlie licenced therevnto; *Ergo*, speciall licences to preach, are onelie for men to be admitted to preach in other mens cures. The reason of which consecution must needs be this: A man may not without licence preach in another mans cure; *Ergo*, he may without licence preach in his owne: which is apparentlie grounded of no reason, *A negatione unius disparatorum ad positionem alterius non valet argumentatio*. As if he should reason thus; None but a freeman of Yorke may vse any trade in that citie, therefore without any freedom a man may do it in the citie of London. Or thus; Whosoever denieth our author to be a puritane, saith true: but whosoever saith he is a solitane, denieth him to be a puritane (bicause that he himselfe hath made an antithesis betwixt them) *Ergo*, whosoever saith he is a solitane, saith true. His other reason out of the injunction, which saith, No other shall be suffered to preach out of his owne cure, than such as shall be licenced, *Ergo*, euerie one in his owne cure may preach vnlicenced, doth no waie follow by the rules of Logike. For, licenced and vnlicenced, in his owne cure, and not in his owne cure, are no contraries, but contradictories; which beginning with the vniuersall negative, admitteth no consecution, but his own contradictorie with a negation: as thus, None vnlicenced may preach out of his owne cure; *Ergo*, some not vnlicenced (that is licenced) may preach out of his owne cure. Yet I grant the lawe admitteth diuerse times such reasonings, and they are called *A contrario sensu*, and grounded vpon this rule, *Quod exceptio firmat regulam in casibus non exceptis*, an exception doth giue strength to a rule in cases being without the compasse of the exception; thereof there be diuerse examples in the citill law: insomuch that it is called by Papinian, *Fortissimum argumentum*

* 32. q. 1. c.
dominus.

* L. 1. § huius rei

mentum

mentum, in one place. Yet notwithstanding it hath diuers limitations, wherein it dooth not hold; and naniely, ^b where the mind of the law-maker is otherwise, as where it is put onelie by waite of exposition, and not condition : or where the law dooth otherwise specially dispose, as in this case it both hath beene afore shewed sufficientlie, and appeareth also by the fourth iniunction ; where it is said they shall preach in their cures, Once at the least in euerie quarter of the yeere, in their owne persons being licenced especially therevnto, as is specified hereafter, that is to saie, (as is in the eight iniunction) either by hir Maiestie, one of the Archbishops for their prouinces, the Bishop for his diocese, or by the Duenes Maiesties visitors, to which we may adde, or by one of the vniuersities of Oxford or Cambridge, their priuileges since that time being by act of parliament confirmed, wherof this is not one of the least. And lastlie it holdeth when the like reason is in ^d both the contraries : as it is in this point. For there is as good reason that a minister should be forbidden to preach in his owne cure, as in another mans, if he be not able to deliuer sound doctrine in that forme, as such high mysteries ought alwaies and in all places to be handled. The other argument brought in the last place, Whereas (in king Henrie the fourths time) restraints were made for preaching, and yet none were forbidden to preach in their owne parishes; that therefore in their owne cures none now are or ought to be forbidden : is a verie feeble reason. First, there is a great difference betwixt Not licenced and forbidden. Againe, *viuendum est*, we must liue according to our owne lawes now, and not by examples forepast. Further it commeth nearest to a reason. *A simili*, but then it should conclude, that as they ought not, so neither ought we. And not thus, They did not forbid it, therefore we may not forbid it. And here also he doeth vs like water spaniels to seeke out once againe, where we may find that, which perhaps he was not willing we should hit of. But first I would obserue,

ff. de officio eius cui mād. est. iurisd. l. 20. § mulier ff. de testam. l. 8. § si ignorantes ff. mandati. l. 3. § prima verba. ff. de sepulchro rio. l. 26. § cum inter ff. de pactis dotalibus. l. 2. § fin. ff. de donationibus. l. 6. ff. de conditi. causa dati. l. 1. § quod vulgo ff. de vi & vi arm. l. vlt. § fin. ff. de iuris & facti igno. Instit. de heredita. que ab intestato §. i. l. 14. §. i. ff. de seruo corrupto.

Disloiall
speech a-
gainst hir
Maiestie.

* *Const. prom.*
I. de hereticis
verb. si ta-
men.

* *Const. prom.*
ignorantia
sacerdotum
de off. Archi-
presbyteri.
* *ibid. S. sa-*
cerdotes.

serue, if it were not vsuall with him *Theonino dente rodere*, his disloiall and vndutifull carping at hir Maiestie and his lawes, where he saith: The verie same lawes were established against Wickliffe and his brethren to staie the course of the gospel: hauing spoken afore immediatlie of his Highnesse iniunctions. Secondarilie I find by the perusal of the constitution it selfe, that he hath cut it off by the wasse, in that which most directlie maketh against him. For in the next words following his first allegation, is adioined an exception, whereby (vpon occasion) beneficed persons may by the Bishop be inhibited or suspended from preaching or expounding euen in their owne cures. And if it were not so, then this being but a prouinciall constitution, which cannot derogate from the canon law, afore in this section alledged by our author, should be meerlie void. Yet to make it more plaine, what great doughtie sermons these were, which beneficed persons in their owne cures were (in this great restraint pretended) suffered to utter: For sooth they were nothing but that shalowe paraphrase afore spoken of, which they might simplie conne without booke, and preach to their people, but they might wade no further as appeareth in this selfe-same constitution. And therefore this is farre inough from giuing any authoritie to all ministers to intermeddle with preaching, without further licence than their ordination to the ministerie. The obiection, which to this purpose against the author might be brought out of the aduertisements, he handleth as Alexander did Gordius knot, which bicause he could not handsomely vntie, he helwed it in sunder with his sword. And so doth he, by denieng the authoritie of them, bicause they are not with priuiledge, nor printed by the Quenes printer, although they were commanded by hir Maiesties expresse letters. And is any man to surmise, that those reuerend and wise Fathers, who subscribed vnto the said booke of aduertisements, would or durst publish them in hir Maiesties name, and as by hir Highnesse authoritie and letters,

ters, dated such a certeine daie, if it were not so: or that they would enterprize to forbid or restraine that which the law had so exacliie charged and commanded, as this man dreameth: But it is the guise of little childzen, where they cannot read, there to skip ouer. But this matter is clearely determined by a later * statute than all these, which yieldeth a preheminnence (exclusing all others) vnto a preacher lawfullie allowed by some Bishop within this realme, or by one of the vniuersities of Cambridge or Oxenford, to haue a benefice of thirtie pounds a yeare in the Quenes booke, in like sort as a bachelor of diuinitie by the said statute may haue. Now if euerie one ordeined a minister by a Bishop, were thereby by the secret operation of law, admitted withall a preacher by the said Bishop, then were this no prerogatiue to a bachelor of diuinitie or to a preacher, when as euerie minister should be as capable of a benefice of that value as they, and so the statute should be absurde and clusorie.

* 13. Elizab.
cap. 12.

23. Section. Pag. 47, 48, 49, 50, 51, 52, 53.



Quing had so hard hap with particular proses, he heere commeth to a generall reason or presumption. Because Statutes in doubtfull points are to be interpreted by the common lawe, and so that they may as little preiudice the same as may be, and for that the calling, triall, examination, and qualities required, are spoken of about making deacons and ministers without particular mention of what sort of calling, triall, examination, or qualities, and for that the makers of the Act were men desirous to promote the glorie of God, therefore such calling, triall, examination and qualities are ment, as are requisite to be in those two callings by the law of God: which he proueth also to be likelie By the praier and places of scripture vsed in that action. Touching his conclusion, I can

Articles of
religion.
art. 34.

* c. perlectis §.
ad presbyte-
rum dist. 25.

* Abb. in c.
cum dilectus
Ext. de con-
suetudine.

* Ibid. §. in gl.
ver. nec iuri.
per l. 2. c. de
noxal. & per
Bart. in l. om-
nes populi ff.
de iustitia &
iure.

* Abb. in c.
cum dilectus
Ext. de con-
suetud.

can easilie assent vnto it. If this withall be vnderstood, that if either in this forme of ordering, or in any other forme in any reformed church, euerie speciall circumstance bled, be not *Modo & forma* found in the word of God, as indeed it is not possible, yet notwithstanding if nothing therein be repugnant to the word of God, that it may and ought to be accompted in this action, and all other of externall policie, to be agreeable and according vnto it, and to be that which is required by the law of God: yet the conclusion followeth not of those premisses, for he should haue inferred, that such calling, triall, &c: is vnderstood as the common law doth set downe. Now as touching the qualities required in a priest or minister by the canon law, which is the common law ecclesiasticall, no such matter of preaching is required of him, nor no necessarie tieng by of the deacon onelie to reading of homilies. *Ad* * *presbyterum*, To a priest (saith the canon) it belongeth to performe the sacrifice of the bodie and bloud of the Lord on the altar of God, to praie, and to blesse the gifts of God. As concerning his allegation out of Panormitane, there is no such chapter in that title, wherebpon he might write: yet I find in him vpon the said title this conclusion, that The * words of a statute ought to be construed either most largelie or most striclie, to the intent that the correction of the common law may be auoided by such interpretation. **Yet this moderation, as the law else-where teacheth vs, that** * Where the words are euident, there we ought not to take an vnproper sense of them, to the intent to reduce them to the common law, but where they are doubtfull or haue a double vnderstanding, whereof the one is proper, and the other vnproper, then we ought to take in interpreting euen the vnproper sense, that by it we may swarue so little as may be from the common law. **But in such maner also, As** * that we swarue not from that sense which custome yeeldeth, although by something happening after ward, it should appeare that such sense were not good: because custome hath a power of inter-

interpreting, of derogating and of imitating, whereby it supplieth where law faileth. So that I would gladlie learne what words are so doubtfull, or of so diuers significations in any of our statutes or iniunctions, touching the authorising of euerie minister without further licence to preach, and barring him from reading homilies, as that for auoiding of a contrarietie betwixt them and the canon law, and for the reteining of the vsuall meaning of them, which the custome of this church hath yelded, we should be forced to follow our authoꝝs fancies herein: naie the custome of this church (I am sure) he will not denie, but that it is against him. Moreover one of his chiefeſt assumpts, to wit, That no kind of particular calling, triall or examination is set downe by the said booke so by act of parlement confirmed, is vtterlie vntrue. For the pꝛeface of the booke saith thus: It is requisite that no man shall execute anie of the said offices (not being at that present time, Bishop, priest, nor deacon) except he be called, tried, examined, and admitted according to the forme hereafter following. And if so be that none of these be specified or declared in particular (as he here affirmeth) why doth he keepe such hot schooles a little after, seeking to pꝛoue that they are no ministers nor deacons indeed by law, which haue not bene made according to this exact forme of calling, triall, examination, &c: But to what purpose doth he bring this reason, except he would haue shewed vs withall, what that Calling, triall, examination and qualities be, which he supposeth to be required by the law of God, and which They the Bishops, (whome as I take it he meaneth) by waie of supposall are by him indirealie charged to haue broken: I saie, he supposeth In them vnfaithfulnesse to the Lord, accompting his waies not the best waies, nor his counsels not the wisest counsels, that they haue set the consultations of the graueſt senators, and wisest counsellours, and cheefest rulers of the land behind their backs, that they make their will a law, and that they are not ruled by reason. Crueltie
if

An vntruth.

Pag.76. &
sic deinceps.

Psal.64,3.

Psal.31,18.

Psal.120.

if these his crooked, virulent, and contemptuous accusati-
ons of such men, reaching so high as to charge them with
apostasie, and these mutinous seeds of dissention sowne
betwixt them and other great men of the land, be to be to-
lerated in a published and printed libell, though they were
true and iustificable; then I doe not see, but that euerie other
letw'd disposed person will take the like boldnesse vpon any
discontentment, to whet his dog eloquence vpon any the
best and best deseruing within this common-wealth. For
they haue whet their tong like a sword, and shot forth their
arrows bitter words. Therefore we will praise with the
prophet, Let the lieng lips be made dumbe, which cruellie,
proudlie, and spightfullie speake against the righteous:
and deliuer our soules (O Lord) from lieng lips, and from
a deceitfull tong, which is as the coles of iuniper.

24. Section. Pag.53,54.



Aburditie
in the au-
thors plat-
forme.

Our author omitting to declare
vnto vs the Maner of calling, &c: of
ministers and deacons, which is requi-
red by the law of God, and required
also by the law of this land (as he tel-
leth vs) and leauing it to the deepe con-
siderations of such as know his mea-
ning, if he doe but gape vpon them, dooth in this section in-
treate of Another maner of calling and triall by other po-
sitiue lawes required, charging the Bishops, euen by their
owne records, to haue neuer or verie seldome vsed any of
them. So that seeing he exacteth of them in this action, first
the obseruation of the booke for the forme and maner of
proceeding therein, next the calling, triall and examinati-
on required by the law of God, and lastlie now another
maner of calling required by other positiue lawes: it had
beene meet that either he would haue set downe all these
three forms to be one, and to agree in euerie circumstance,
or else to haue prescribed vnto them, which of the three they
should

should vse, that so they might auoid his high displeasure
and indignation against them. And I would he had vouch-
safed to let himsele so much downe, as to haue told vs
where these positue lawes which he alledgeth are written,
being indeed the canon lawe contained in the decrees. **Dist. 24. c.*
Wherein I find a difference from the forme by act establi- *quando E-*
shed, which appointed the Archdeacon to examine and pre- *pñs.*
sent those which are to be ordered: Whereas here The el- *Vide sect. 26.*
ders indeed priests are to present, and certeine ministers *& sect. 40.*
and others skilfull are to trie and examine them. The
forme of calling, which these positue lawes that he spea-
keth of, doe meane, is nothing (as he saith) But a proces to
be fixed vpon the cathedrall church doores, or a proclama-
tion by an apparitor the fourth daie before the ordination,
signifieng that such a daie the Bishop will make deacons
or ministers, warning such to be present as will offer them-
selues meet men for that seruice. If this be true, and also,
that Three daies together they are to be examined before
the daie of ordination, truelie they haue but Skarborough
warning so suddenlie to be called even the first daie where-
on they are to be examined. But he saith this Maner of cal-
ling is also commanded by the booke though briefelie, in
these words; When the daie appointed by the Bishop is
come: certeinlie he had need to haue a head full of procla-
mations, that can picke out of these words such a solempne
calling or proclamation. But whie doth he not also tell vs
whether of the two, or whether both of them be ment by this
law, that is to saie, the intimation vpon the church doore, or
the apparitors proclamation: And where the articles of re-
ligion doe determine, That no one may take vpon him the
office of publike preaching or ministring the sacraments
in the congregation, before he be lawfullie called and sent
to execute the same: vnderstanding hereby the whole acti-
on of eternall vocation, which he restraineth to the letters
of intimation, or to the apparitors proclamation, whereby
signification is giuen of the daie of solempne giuing of
orders:

Notable
wresting
and falsi-
fication.

orders: he doth here in notable abuse the patience of his readers, whome he thinketh verie sottish, if they can make no difference betwixt these two kinds of callings. But as no man denieth, but that it is requisite some publicke notice should be giuen a conuenient time before any solemn daie of generall ordination prefixed doe come, to the intent (as he saith) men meet for that service may then and there offer themselves: so if hereby he will sucke any matter to object against such Bishops, who vpon especiall occasions, and with more due triall and examination than can be had, where such a confused multitude at once must be run ouer, doe laye their handes vpon one or two well knowne vnto them, without any such solemn notifying thereof, he shall rather hereby argue his spitefull stomack against them, than any care he hath of reformation or obseruation of law, which he doth pretend sometimes, when it seemeth to accord with his humor. For it is notorious, that such of the Bishops as haue kept that course, haue sent abroad more sufficient preachers, and fewer of meane gifts haue escaped their hands, than possible can be performed at those generall ordinations. And doth not our author himselfe disallow in a whole treatise, as Vnlawfull, to ordeine a minister without a title? which platforme can no waie stand with this generall publication of orders, for all commers found meet therevnto, without respect of hauing or not hauing any place void in the diocesse allotted for them? *Conueniet nulli, qui secum disidet ipsi.*

Contra-
dictio.

25. Section. Pag. 54, 55, 56, 57.



In this section, containing the maner of triall and examination of such as are to be ordered, I doe obserue (though not so fauourable dealt with as to knowe by him) what warrant his first allegation* hath, and whence he borrowed it; that this exact triall which

*c. quando
Epūs dif. 24

which the canon setteth downe, dooth not require in special-
tie such perfection of learning, whereby the partie to be or-
dered must of necessitie be thought worthy to preach, which
is the principall issue by the authoꝝ to be pꝛoued, and that
it pꝛescribeth saturday for ordinations. Also vpon the
wordes of the constitution of Otho. requiring a search & in-
quisition to be made by the Bishop, our authoꝝ hath gathe-
red a scrutinie to be required, that by taking of voices in
allowance or disallowance of the parties to be elected,
which is the nature of a scrutinie, he might belike transub-
stantiate the Bishops inquirie into some popular election
of their ministers. And it seemeth for that end also he did
bring the comparison of pꝛocēdings in the Vniuersities,
whereby he might insinuate, that as the Vicechanceloꝝ
there dooth but in the name & behalfe of the greater part of
the regents of that facultie which haue yēlded their suf-
frages, admit the graduate presented; so the Bishop should
be thought to haue no further authoritie, but to admit such
as the electoꝝ and examinoꝝ haue allowed as fit men for
that calling. For although it was easie for him to espie
many other differences, yet he obserueth but this vari-
ance onelie betwixt the trials vsed in conferring degrees
in the Vniuersities, and in conferring of orders, that the
triall and Examination at giuing orders consisteth in the
interrogatories, betweene the Bishop demanding and the
partie answering. But no such matter is ment, as to pꝛe-
scribe an electiue scrutinie, which he would insinuate, but
onelie a scrutinie or inquisition, which the *glosse therfore
calleth *Scrutinium examinatorium*, and the text *Indagatio dili-*
gens, that is, a diligent inquirie. Which examination both
in this constitution, and in the glosse vpon the decretall by
him alledged, mentioned: is not so necessarie and substan-
tiall a solemnitie, but that it may be omitted vpon occasi-
on, euen as well as it may be committed vnto others be-
sides the Archdeacon as we see heere. Although our authoꝝ

resting of
law.

* *Glibidem*
in verb. anse.

* *Gl. ibidem*
in verbo in-
dagatio. per
c. constitutus,
Ext. de appel-
lationibus.

forgetting what here he had said, doth afterwards vige such a necessitie in the archdeacons presentation of ministers vnto the Bishop, which is grounded vpon, and is but the effect of examination: as though he could be no minister which were not so presented. For the glosse by warrant of law here teacheth (as is by other places also else-where shewed vpon the like occasion) that * This examination is not required to be done, but towards them that are vnkowne to the examiners. And for his capablenesse in respect of his birth, good fame, and such like, the same glosse saith, the letters testimoniall doe suffice. And vpon this consideration the preface of the booke of ordering, doth speake disunctiuelie, and not simplie as our autho^r vnto the here alledgeth, that The Bishop knowing either by himselfe, or by sufficient testimonie, anie person to be of vertuous conuersation, and without crime, may admit him, &c. And therefore, whereas therevpon he needleslie speaketh to proue by a similitude, that this must be a further notice than of the outward feature and lineaments of his bodie; he doth but labour in vaine, as the man who share his hog, and had thereby much crie, but small woll. For although the booke doe mention in the Bishop a knowledge of him that is to be ordered to be of vertuous conuersation, and without crime, and that either by himselfe or sufficient testimonie, which cannot be stretched vnto his cunning and meetnes (as this man doth) to execute his ministerie: yet is the knowledge of his abilitie also required, and is to be knowne, as in the same place is prescribed by the triall and examination that is to be made of his learning. And therefore his similitude to this end, that a man choseth not a schollemaster for his honestie onelie, but for his learning also, as it dependeth not of his former speeches, so it serueth to no purpose, but to leaue an impression of conceit, that the contrarie to this is practised by the Bishops.

26. Section. Pag. 57, 58.



He other circumstance of admitting into orders, In the face of the church, mentioned in the preface, is sufficientlie expounded in other passages within the bodie of the said booke, by the phrases of the Clearkes and people present: in the presence of the people, and by the word of Congregation. So that our author shall hardlie be able to Instruct vs, as in this section and three or ther following he laboureth to do, that vnder the generalitie of this word he may establish An interest to be due to all the faithfull people in the land, for the choise and allowance of their pastors: when as euerie nouice can tell him, that though by the law of this land, marriages also are to be solemnized In the face of the church: yet hereby cannot be inferred that all the people present haue an interest of assent or dissent in euerie mans marriage. And as there the presence of the congregation is not materiall, otherwise than for the fuller testification of the marriage, for their ioint praier's to God for them, and for to object impediment if they know any: euen so, and for no other end, it will appeare to be required, that ordinations of ministers be made in the face of the church. And although in some but not in all reformed churches (the precedents whereof he obiecteth vnto vs else-where) some slender shadow of popular approbation be retained in the ordering of the ministers; yet I doe thinke verelie, that in no church the whole number of the people are permitted to haue a free election of their pastor, as this man would faine establish here amongst vs. The reasons, whereupon in this section he groundeth his assertion, are all (sauing one out of the civil law in the Authentikes) taken out of Gratiens rapsodies. The two first thereof doe speake not of Any election or approbation of the people, but that which the Councell

Pag. 62.

G.ij.

of

of the clergie, and the testimonie of the people, or in the presence of manie by-standers, ministers were then to be ordeined. Neither yet doth the first of them speake simplie of Counsell of the cleargie or testimonie of the people to be had in ordinations; but onelie then, when as the examination required in the said place is omitted. And therefore this aduise of his clearkes, and the good testimonie of the people, the Bishop is but to vse in stead of examination, as appeareth by that *Particula aduersatiua*, Otherwise let not a Bishop ordeine any, &c. And by the glosse vpon the same place, which saith, Otherwise, that is to saie, If they be not examined by the clearkes attendant about the Bishop, or else tried by the good testimonie of the people. And another *glosse gathereth thus; Heere you haue a prooue that the testimonie of the people is equiualent vnto examination, wherevpon we may note, that it is sometimes sufficient for a clearke that is to be ordered, if he be of good fame. Which may also appeare *hereby, that such as be knowne, are not to be examined, but those that are vnknowne. The second allegation, which onelie speaketh of the presence of manie by-standers, is not aright quoted, for the number of the page (as it is in some prints) is taken by him for the number of the distinction. The first allegation also left by him without quotation, but taken indeed out of the chapter *Vota 63. dist.* speaketh no further than of requests and testimonie of the people to be had in this action, and leaueth the election onelie to the cleargie. To which also agreeth that *canon which saith, It is not lawfull for the people to make election of such as are to be promoted to priesthood, but let it be referred to the iudgement of the Bishops that they may trie, whether such is taught in word, in faith and spirituall conuersation. And here vpon is inferred this; By all these authorities laie men are excluded from choosing of priests, and a necessitie of obeieing, and not a libertie of commanding is inioined. And the *glosse reconciling other places, which in thew seeme repugnant to this, saith,

**Gl. in c. nullus dist. 24.*

**c. de Petro dist. 47. pag. 70. dist. 75. c. 2. ordinaciones.*

**c. non licet dist. 63.*

**Gl. ibidem ver. contra c. nolle & c. cum nolle. d.*

saith, It is to be holden that laie men ought to be present, not to elect, but to yeeld consent. His third and fourth allegation go something further, and doe require the assent and allowance of the citizens. The former of them is left without quotation; the second our author hath a little helped (as craftie companions doe true dice) by translating *Conniventiam & testimonium civium*, The allowance and good liking of the citizens. Whereas in truth *Conniventia* is when a man seeth well inough what is done, and is content not to oppose himselfe, but to winke at it: and by Testimonie, as was afore shewed forth of the glosse, is nothing else vnderstood, but a good name and report amongst men. And where he vpon these dooth strait-waies leape for a conclusion, That these texts and manie other mo, doe all affirme that elections and ordinations must be made by citizens in the first place, And priests or clarkes in the plural number, and willeth vs to Note it: we must tell him that he leapeth short, and that we note *Quod hæc nota non valet*. For he manifestlie herein falsifieth his owne allegations, which all doe referre the ordaining to the Bishop but with assent, or this or that allowance of some others. And I thinke in the proper and most vsuall signification of ordination and imposition of hands, it is not to be shewed, that any laie man had euer anie intermedling therewith, which some of their chæfest *νομολογοι* doe also grant. And where in the first place by waie of preoccupation, he goeth about to proue that These are not spoken of the cheefe priest of euerie diocesse which is the Bishop, though it be not denied by any: yet assuredlie, the place whereby he would proue it is onelie to be vnderstood of the Bishop and the canon, is thus: He shall be no priest henceforth, whome neither cleargie nor the people of his owne citie dooth choose. But he thought to prouide safelie for himselfe herein not to be espied, and therefore quoteth the 64. distinction in stead of 51. and the Chapter *Si forte*, which is not there to be found. The summarie gathered vpon the said

c. qui in aliquo S. sed nec ille dist. 51.

G. iij.

chapter,

chapter, *Qui in aliquo*, the glosse throughout: yea, and the whole chapter requiring the age and other qualities, peculiarie by the canons looked for in Bishops, and the word *Episcopus* there used, doo all proue a Bishop indeed, and not any inferiour minister there to be vnderstood. And so did the whole parlement of Paris take it in the 31. article of their defense for the libertie of the church of France. And he himselfe affirmeth that there were congregations in the countrie, where there was by likelihood none of the cleargie, but one minister, and it must needs be, that there were ministers to be placed in other places besides cities. And it is yet made more manifest by another disiunctiue following, Or else the authoritie of the metropolitane, or the assent of the comprouinciall priests haue not tried; both which dooth make it plaine to be vnderstood onelie of Bishops. Where it is not also to be omitted, that the election there spoken of in the disiunctiue (wherein if either part be true, the whole proposition is true) dooth ouerthrow the election he speaketh of by citizens. For thereby it seemeth sufficient as to that point, if either the cleargie, or the people of the citie do make that choise. That which he bringeth last out of the Antientikes, I haue answered afore, that it is not to be found either in the edition of Haloander, or the Greeke or Latine set forth by Contius, yet it maketh directlie against him: for if he do thinke this constitution to be law with vs, and conuenient to be used, that Where an vnworthie minister is chosen by other, there the most holie Bishop may ordeine whome he shall thinke best: then in some case one man alone may ordaine and choise a minister without approbation of the people, and the Bishop shall hereby haue as absolute a stroke to reiect or reprove a minister, as he hath alreadie. But I would of all these varieties of iudgements in diuerse canons, our author would haue signified which of them we must hold for law, for all, being so discrepant, cannot be. Whether it must be onelie In the presence of manie by-standers, or at the request

6. Se
the
ecu-
word
not
did
e of
d be
the
ear-
here
ies,
true
or
both
Be-
tion
t be
lev
affi-
e of
out
t to
ke
e a-
aw
or-
Bi-
in
ni-
op
ne
ele
por
w,
be
e-
est

ction.

of the Abstract.

Pag. 87.

quest of the people, or with the testimonie of them, or with their aduise or assent, or else by their election and voices. But if by waite of admittance it should be said, that these old canons were as direct as he would haue them, yet they cannot any waite serue his turne. For he must first proue that they are not repugnant vnto the customes of this realme, and shew vs how they haue bene vsed and executed here before the making of the statute 25. H. 8. per he can saie they are by law established amongst vs. Paie, if euen then they had bene in vse, yet are they countermanded and reuerfed now, by another course of ordering of ministers set downe in the booke for that purpose, wherein no such forme is prescribed. And he himselfe affirmeth often in this treatise, that they are no lawfull ministers, yea no ministers at all in this church of England, that are not ordered according to the exact forme of that booke. But if he will saie that this popular approbation and election, (as he plainelie afterwards inforceth) is the forme by law required, then haue we (by his owne doctrine) no ministers at all in this church, for we haue none that haue bene so chosen. Yea then his owne clients, who to enable themselves to take livings ecclesiasticall according to law, will be contented to be ordered by a Bishop according to the booke, which they neuertheless hold to be a calling against the word of God, shall thus be left wholie without calling and ministerie, and by his and their owne iudgements are to be taken for intrudors. And if this plat of popularitie, be not the forme of ordering ministers, which the lawe and the booke doth establish, then with what conscience doth he so vze it in this place, who doth so rigorously in other places exact the obseruation of euerie tittle in the booke? But I will not runne into this common place to shew all the absurdities, inconueniences, and impossibilities of it, or the iudgement of elder and later Diuines, being without my reach, or the practise of other churches, which all are learnedlie handled *Pro & contra* by others pur-

Pag. 62.

Factionous
doctrine de-
liuered by
the Abstract-
top.

C. iij.

posellie

*c.non.ett.
63.dift.

*c.f. ergo.
8.q.1.

Dangerous
in nouation
byged.

*Iuxta c. bre-
uiter dist. 62.

poselle intreating hereof, to which I remit the reader for further resolution. I will onlie put this great canonist in mind of the 13. chapter, of the councell of *Laodicea, which doth forbid these elections by the multitude of people, which as *Origen saith oftentimes is pricked forward or caried awaie with clamours, fauour, or reward.

And here I would be resolved: these canons being (as he saith) in force of law with vs, and To be vnderstood not alone of the chiefe priest of euerie diocesse, which argueth they are to be vnderstood of him: whether this be not wholie to take awaie from hir Highnesse the nomination and recommending of Bishops & Deanes to their places, or else to leaue hir Maiesties choise to be countermanded by a beast of manie heads: *scinditur incertum studia in contraria vulgus*. Also hir Maiestie being the head member of this church, whether she shall be allowed a voice by hir Highnesse proctor amongst the people of one parish alone, or in all the parishes in the realme, in choosing their ministers, and what voice, whether a negatiue countermanding all others or no: Or else whether hir Highnesse shall haue no suffrage therein at all: both which, if they be not to the great derogation of hir Highnesse prerogatiue roiall, let indifferent and wise men iudge, who may also see a further matter and a greater debasing shot at by this popularitie, than outwardlie is pretended.

27. Section. Pag. 59, 60.



That the statute 25. Henrie 8. for establishing of such canons and decrees, as be of nature and qualitie there specified, doth not giue life to these canons and decrees last alleged, because both they are repugnant to the generall and inuiolable customes of this realme, and to hir Maiesties prerogatiue roiall also, hath bene afore shewed: yea, they are not a- lone

lone contrarie to ours, but to the generall customes of all christendome by many hundred yeres continued, as may appere by that so often repeated distinction of benefices collatiue and electiue, mentioned and allowed of, not onely by canons and decrees, but by the municipall ordinances almost of euerie seuerall realme. His second reason for p^{ro}ofe (out of the 21. Hen. 8. Cap. 13.) of an interest of

An absurd reason.

All the people in the approbation and election of their minister, bicause a Bishop is allowed six chaplines, a number then required to be present at giuing of orders, is not to be counted a *Fallax*, being too simple to make any shew of deceit, but as a syllogisme framed in mood and figure of *Quem terra pontus*, without head or taile. His third reason for p^{ro}ofe h^{ere}of is, bicause the booke in sundrie places of it speaketh of clarks and people present, and of An exhortation declaring (for thus be the words of the booke, and not as our autho^r hath pared them) the dutie and office of such as come to be admitted ministers, how necessarie such orders are in the church of Christ, and also how the people ought to esteeme them in their vocation: which is so strong a reason, that it cannot be gathered or drawne together into a syllogisme with a cart rope, except we would imagine that wheresoeuer the law permitteth men to be present at any action, that there they are interested to haue a voice to allow or disallow that which is to be done. And if the exhortation spoken of, could giue anie colour that waie, it should haue bene to set out what heed and vigilant care the people should haue, and what especiallie they should respect in the choice of their minister, rather than to tell them how they ought to esteeme him when he is once admitted; for if they themselves make choise of them, there is no cause why of all other they should mislike, or make anie light reckoning of them, otherwise than men commonly do, who thinke they may make bold with such as they themselves haue aduanced. And whereas he would thereof gather the presence of the people of that parish, where

where the minister is to be placed, to be required, for that no profit else for the better estimation of their minister, can by them be reped of that exhortation: if it shuld be granted vnto him, can he ground vpon their presence an interest also in them of approbation and election of their minister? But there is profit to be reped by such an exhortation for any people whosoever that shall be present. For euerie man is or ought to be of some parish, and hath a minister whom he ought to esteeme and reuerence for his calling sake: and therefore such exhortation can not be said to be in vaine, though the people of the parish where he is to serue, be not then present. And for that these canons by him before alledged doe mention Citizens presence at the ordination of clearks, our autho^r taketh occasion to tell vs, that The choristers, singers, organ-plaiers, and other officers and ministers of cathedrall churches, are not comprehended vnder the name of Citizens, for that the canons doe attribute to these a seuerall name from citizens, by calling them Clearks, which as he trulie affirmeth, so this dooth argue that the place by him afore brought out of the Autentikes, that Clearks vnlesse they were learned should not be ordeined, that thereby he might procure an abilitie of preaching to be required in euerie cleark, did not correspond to his purpose, seeing that no man will say that any such exquisite learning is looked for in such inferior clearks and officers of churches as these be. But where he would conclude a necessarie presence of more people than the Bishops owne seruants at ordinations of ministers, bicause by law domesticall folke are no fit witnesses in a matter not domesticall: he sheweth as often afore he hath done, rather a desire to seeme to haue read some law, than a care trulie to vnderstand, or aright to applie it. For it is notozious that men are not so fullie to be credited, depositing any thing to the benefit of their maister or fellowes in household to the prejudice of a third mans interest. And yet this notwithstanding, where no benefit is to rebound to

A reason re-
topted.
Pag.16.

to their maister hereby, nor any third man particularlie interested, I doe not see whie in this matter they may not be as well credited to testifie afterwards, if need were, that they did see to haue bene done, as anie other who soeuer. We must we beleue that a Bishop at Lincolne, being to ordeine a minister for the furthest part of his diocesse about Eaton, must suffer the church to lie void, till the husbandman and other of the parish leauing their necessarie trades vnfollowed, will come on their owne costs so farre, to be Eie-witnesses and eare-witnesses of the Bishops dealing, and to see whether he obserue the maner and forme prescribed vnto him?

Aburditie
in the plat-
forme.

28. Section. Pag.60,61.



Our author hauing brought such stuffe out of the canon and statute lawe, as he could hit vpon, and you haue heard, leapeth here backe againe to take another snatch out of the canon lawe for prooue of the peoples interest in the approbation and

election of their ministers. First, because the glosse denieth Consent to be the will of manie, vnto whom the matter apperteineth, ioined in one together. But this is a fallacie, *A petitione principij*, to assume as granted, that any consent (otherwise than afoze is proued) doth or did belong vnto the people, in choise of their minister. And if he will haue that rule of the canon law to helpe the matter; That which toucheth all, must be allowed of all: surelie he will hereby ouerthrow all the ministerie, if they must tarrie without roomes to minister in, till euerie one euen the least and worst in euerie parish doe agree vnto the election of some one. For that rule (as Dynus and other doctors vpon it do note) cannot be vnderstood of *Omnes ut vniuersi*, as it is in corporations, where the greater part of voices are respected, but must be taken, *Omnes ut singuli*, all and euerie one

*Dynus &
alij in reg.
quod omnes.*

one in senerall, that is any waie interessed, and so one lewd disposed person might frustrate the good inducours of manie thousands.

Seditious
doctrine of
the authoꝝ.

And dooth the authoꝝ thinke indeed that this course is either expedient to be vsed, or agreeable to the lawes and customes of this land: As it meet bicause it concerneth vs all to haue good Princes counsellors, officers of the kingdome, iudges and Bishops, that all the people in the land or of one diocesse should haue a free election and approbation of them: But this kind of election he saith the Bishops themselves in certeine canons, which were set downe and published, but neuer by his Maiestie ratified, haue aimed at, when they saie, the Bishop shall laie his hands on none, nor at any other time, but when it shall chance that some place of ministracion be void in his diocesse. This indeed might make some shew against absolute ordinations, but how it can open the peoples mouth to giue voice in election of their ministers, I for my part cannot yet perceiue. And therefore call backe againe your hasty conclusion, whereby you are not content onelie to gather An interest in the choise and appointment of their minister, to rest in the people, but also a speciall interest, yea and a prerogative also therein belike aboue Prince, Bishop, Patrone and all.

29. Section. Pag.61,62.



Our authoꝝ hauing alledged before, some canons, seeming to make shew of a kind of consent of the people, which he would haue to be an election of their minister: and knowing that Gratian, taking vpon him to write *Concordiam discordantium canonum*, did bring other canons also more direct on the contrarie part, which yet he afterward reconcileth: thought it best for his purpose to take exceptions against such as were

were not for his tooth, vnder the person of pope Adrian, whom he calleth Proud, foolish, & his canons, excluding late men from election of Bishops ridiculous. And yet* Adrian testifieth that herein he decreed nothing which was not done in former old councils. And the decretall epistle saith: The whole* election of common right belongeth to the Chapter. And this is also the same Adrian, which together with a generall councill decreed, notwithstanding the election and consecration of Bishops appertained to the cleargie, that* yet all Archbishops and Bishops in all provinces should take their inuestiture of Charles the great then emperor. Which is a further authoritie attributed to princes, than vsuallie in most parts of christendome, they doe at these daies take vpon themselves. In like manner Steeuen the Bishop of Rome* writeth to an earle neere vnto the emperor: that whereas one was canonicallie chosen a Bishop, it would please him to procure the emperours roiall assent therunto, according to the old custome, that vpon obtaining thereof he might proceed to the consecration of the new elect. According to which, Gratian also reconcileth such of these canons, as in appearance seeme different, thus: In that the prince* or people is required to be present at elections of Bishops, they are not therefore to be called therevnto, that they should make the election, but to yeeld consent therevnto. So that, if he had weied all things aright, he might haue perceiued both that his former allegations were not so forceable, as to driue vs to runne for an answer vnto pope Adrians decision, nor yet whie he should be so angrie with him, who spake onelie of elections and consecrations of Bishops by cleargie men, without excluding either the inuestiture or assent of princes, and without any intermedling with ordination of inferior ministers, & therfore it was not he that spake in his case. But there was least cause at all, whie he should thus shuffle by the canon before* alledged out of the old famous councill of Laodicea, either with this of pope Adrians, or

*Adrianus.
63. distin. 5.
consecratio-
nes.

*c. cum eccle-
sia Ex. de
causa possess.
Et propriet.

*c. 2. Adria-
nus dist. 63.

*c. lectis.
dist. d.

*c. cum longe
S. electiones.
dist. d.

*c. non est.
dist. d.

to

25.H.8.c.19.

^a A&T.^b A&T.^c Titus.1.

to reckon it among such latter canons, as dare not once
 step forth to seeke Any whit to impeach the truth of his as-
 sertions: for it is so old, and decreed by so good aduise, of so
 manie graue and godlie fathers, that it will not be ouer-
 throwne with such a blasse. His first reason, for prooue that
 these canons by him alledged are not to be impeached, ei-
 ther by that of pope Adrians, or any other like being taken
 out of the first of the Acts of the apostles, is vtterlie besides
 his owne purpose. Which is not to shew what is decreed in
 the word of God in any of these controuersed points, but
 what is by canons, constitutions, and synodals prouinciall
 in force amongst vs. And therefore if this of pope Adrians,
 or any other to like effect were not to the hurt of the prero-
 gatiue roiall, nor repugnant to the lawes and customes of
 this realme, but had bene put in vye and practise before the
 making of that statute: it might according to our authoys
 foundation, stand for law still in this land, though it were
 not consonant to the word of God. Which I bring to shew
 the authoys wandring from his issue, and not in any such
 respect, as though this his allegation might otherwise
 haue serued his turne. For it is manifest, that it cannot:
 because that course of election mentioned in the Acts, was
 not vnderaken, for satisfieng of any expresse commande-
 ment of Christ; but vpon an especiall occasion of a muti-
 nie of the Grekes against the Hebues; for that their wi-
 doves (as seeming to be distrusted or contemned) were in
 the administration of the common church stocke ouer-pas-
 sed: whereas the canons brought for prooue of excluding the
 multitude from elections, were not grounded vpon anie
 one particular occasion, but of the nature of the people,
 and exigence of the cause it selfe. That of the Acts speaketh
 of deacons onelie, and is not read else-where in all points
 to haue bene obserued either in ^a choosing of an apostle or
^b ministers or of ^c Bishops. There also the whole multitude
 of the disciples made choise without the apostles, who ment
 thereby to auoid all suspicion of corrupt dealing: which
 two

two circumstances no man will (I hope) require in choosing either of a Bishop, or minister, especiallie that the Bishops and other of the cleargie, should be debarred from any stroke in that action; seeing therein, there cannot be the like cause of suspicion. Where by the wate it is not amisse to be obserued, how hard it is to keepe a great multitude in the bounds of moderation, seeing the Holie-ghost in the great sinceritie of that church, in comparison of our times, noteth no lesse, where it is said: In those daies, as the multitude of the disciples grew, there arose a murmuring, &c. Also that the apostles called them together, and prescribed vnto them what they should doe in that point of external policie, and that according to the present occasion offered, without any prescript word, but onelie by the instinct of Gods spirit. Further, that the apostles set out the qualities of the men to be chosen, but tied them to no certaine forme of election to be obserued, neither doe we read that forme of election they then vsed. Againe, that the disciples were to looke out and chuse such, as they thought fit to be trusted with the church stocke; but the apostles reserue to themselues the appointing of them to their offices, if they should be found to be such as were described. Moreover, that the deacons were appointed for the further ease of the apostles, in some part of their function. Lastlie, that the disciples presented them to the apostles censures, who by imposition of hands did (as it were) consecrate and authorize them to the function of deaconship. Now, if by this act, our author mind so hard to curbe vp all churches, as that he will accuse them to giue A counterbuffe to the Holie-ghost, which in their ordinations doe not agree herewith in all circumstances; or if he will tell vs, that something extraoordinarie was here in this action, not to be followed of vs: then must he shew by direct scripture, that was ordinarie, and that extraoordinarie, least By his owne doctrine he seeme to accuse Christ not to haue dealt faithfully in his fathers household, in not giuing a perfect lawe

Acts.6.1.

Pag.10.

for

for gouernement of his church by discipline : and must reconcile other places of scripture concerning the like action, which doe not agree in all points with this. In the first of the Acts two are presented, one is chosen by lot, and no imposition of hands is mentioned : here seauen are chosen (the maner not set downe) by the multitude, and being presented to the apostles, they all appoint them, and laie their hands on them. In the 14. of the Acts, Paule and Barnabas are said, χειροτονήσαντες αὐτοῖς πρεσβυτέρους, and to haue fasted, but no mention is made of the imposition of hands : here is no mention of fasting, but of imposition of hands. Here all the apostles did appoint them, ὅς κατεσχίσαντο : in the first to Titus, he onelie is willed to appoint priests, ἵνα κατεσχίσῃς πρεσβυτέρους, according as Paule had prescribed vnto him. Paie, let him shew vnto me any two reformed churches of diuers nations that iumpe in all circumstances hereabouts, or any one of them which permitteth this action (without intermedling of the chiefe pastors) vnto all the disciples, or multitude of beleeuers in the said church, which yet haue an interest in hauing a good minister. Vnt (as I take it) the chiefe swaie and moderating of such actions, are in all other reformed churches in such men, to whom this trust is especiallie recommended. And hath not likewise (for auoiding of sundrie inconueniences) the whole church and realme of England by parlement, wherevnto euerie man in the eie of the law, is said to haue consented, reposed this trust in a few choise men of the ecclesiasticall function? Euen maister Beza himselfe concerning this place of the Acts doth saie: There is no cause, whie hereof any man too curioully should prescribe anie speciall rule, but if the conscience be vpright, it will be easie to set downe what is expedient, according to the circumstance of times and places. His second reason as it seemeth, is grounded of these words of Adrians canon, Let no laie or secular prince thrust himselfe into the election of any Bishop. Which if they be vnderstood (as afoze is proued they

* Lib. con-
fess. 5.

they ought to be) concerning the election and consecration onlie, reseruing by good reason, & as it hath bene alwaies at the common law in this land, the licence to elect, nomination, rofall assent, supremacie, & homage vnto hir Maestie, then is hir Highnes prerogatiue no waie touched, nor any thing deriued vnto other, which hir Maestie claimeth to be due vnto hir selfe. But to let both Adrian and his canon lie in the dust, how can the canon of the counsell of Laodicea, which debarreth multitudes from election of those who are to be preferred to the ministerie, impeach hir Maesties prerogatiue? Which if it by no meanes can doe, then is our authoers reason defectiue, seeking to ouerthrowe all canons to this purpose, because the canon of pope Adrian seemeth to him to confront hir Highnesse prerogatiue rofall. And can we thinke, that this man is in good earnest, where he seemes thus to tender hir Maesties prerogatiue, whereas these popular elections of Bishops and ministers which he now striueth for, doe fight with full but against it, and are honoured by himselfe, even with the name of a Prerogatiue? His third reason, for the improuing of all such canons, as Being against the customes of the realme, seemeth so strange vnto me; that I am in doubt, whether I haue dwelt so long in England, as I did afore imagine: for I neuer heard of any elections by the whole multitude to haue bene vsed. The statutes which he speaketh of, are written *In principio libri paulo post finem capitulo nusquam*: and shall be answered when any such be framed. His reason, to proue them contrarie to the customes of the realme, is thus: The greatest number of voices, of such as haue interest, doe make choise of certeine officers, as of maiors, bailiffes, shiriffes of townes, &c: Ergo, ministers are, or ought so to be chosen, or else it is contrarie to the customes of the realme. Indeed, he might haue gathered, Ergo, our maner of electing ministers now in England, is contrarie to the customes of choosing maiors, &c. And might he not as well haue gathered, that the Prince, the Councel-

H. J.

lozs,

Pag. 61.

A childish
reason and
absurd.

His reason
retorted vpon
him.

lores, the greatest Officers of the land, the Bishops, the Judges, the Sheriffes of shires, the Sergeants at law, the Justices of the peace, the Custodes *Rotulorum*, the Escheators, the Officers in any court of record, the Capteines and Constables of any strong pées or fortresses, the Constables of hundreds, the Mint-masters, Comptroller & Auditor of mints, the Customers, Comptrollers, and Searchers of ports, ought also so to be chosen, and being otherwise appointed, that the customes of our land (which is our common law) is thereby transgressed: But euerie child may see the grosse absurditie of this reason, and he himselfe if he haue not rubbed his forehead exceedingly, will be ashamed of it. And besides the follie of his argument, his antecedent maketh against himselfe. For it is notorious, that in cities & townes, not euerie one that is to be gouerned, hath voice in electing their officers; but certeine which be culled out of the rest, and speciallie trusted. So is there none admitted to the election of knights of the shires, but *Legales homines*, which may dispend xl. shillings in land of freehold by the pée. And yet manie besides are interested therein, and may be prejudiced therby, as being to be gouerned by the one sort, or to be tied to such statutes, as by the consents of the other are passed. If therefore in these actions for auoiding of stirres and confusions, elections were put into a few mens hands; much more reason was it, that the multitude should not haue stroake in election of ministers, being for the most part vtterlie vnable to iudge of their sufficiencie in learning, which is the cheefest thing to be respected, but yet not debarred to object what they can against their conuersation. It maketh flatlie against himselfe in this also: bicause here he seemeth to require no other consent for election of ministers, than is vsualle in most cities and townes in the choise of their officers, being done by the greater part of a few, in respect of the whole multitude besides, contrarie to the rule of law by him before brought; That which toucheth all, must be allowed

Pag. 60.
Contrarie
tie of the
author.

lowed

lowed of all and euerie one : and contrarie to that which here he saith, that All the faithfull of the land haue an interest in choise and allowance of their pastors. So that by this reckoning, men, women, and children (for all the faithfull be interested) shall haue voices in election of their minister ; and if one dissent, all must be dashed, if we follow that rule.

And that this was the meaning of those that confirmed the booke of ordering, he proueth; because they Being men renewed with the spirit of wisdom in the gospel of Christ, would be as carefull, what guides they approoued of for conduction to eternall life, as for discreet dealers for them in matters of this life, and as prouident ouer their soules as ouer their goods. Indeed if all they had bene of this mans spirit, who peraduenture thinketh himselfe as wise and learned as any, and nothing any waie touching him, to be well done which he dooth not himselfe; this might then carrie some shew, to haue bene respected. But those that be modestlie wise, and with humilitie haue learned *Sapere ad sobrietatem*, doe thinke, that one learned man, long studied in the scriptures, and all good learning, is better able to iudge of the abilitie and sufficiencie of any in that studie; than ten thousand other, though neuer so wise, yet not so deeply studied in those matters. We beleue one skilfull lawier in a point of lawe, and one expert physician for the state of our bodie; better than we doe all the world besides of such as haue not either at all, or but slenderlie waded in those professions. And in truth, if this had bene their meaning, whie did they not plainelie expresse it, and whie hath none of them, till this *Nouus orator* peered out, shewed what was then done in parlement, what was ment, and what was said to this purpose: But if any such thing had bene ment, they would either in generall words, or especiall, haue reuered that statute which saith: The examination of the abilitie of a person presented to an ecclesiasticall benefice, dooth pertain to an ecclesiasticall iudge. *Articuli cleri*

A. 9. E. 2. 13. To that which might be truelie objected of tumults, stirs, contentions, factions, ambition, and confusion, ordinarilie heretofore accompanying these popular elections, he answereth first, that Euerie true belecuer shall haue a spirit giuen vnto him to discerne, whether a man be apt to preach or no: **Secondarilie**, That christians are not to feare such rages of the people; but such are to be affrighted hereof, that haue put awaie faith and a good conscience. **To the first** I answer, that the most in euerie place, by whose voices it seemeth he would haue the matter swayed, are not necessarilie True belecuers, and such as haue the spirit of Christ. For his flocke is but a handfull in comparison of hypocrits, and manie are called but few are chosen. Neither are all true belecuers alwaies endowed with such measure of wisdom and discretion, as that they are able to sound the aptnes of a man in learning, for the ministerie: nor yet haue all so profited in true mortification, as that they can weine themselves from those disordered affections, which cleaue fast vnto euerie one of vs, either more or lesse, so long as we remaine in this world: and therefore in such cases, the more that doe deale in any action, the more disorderlie and troublesome for the most part it falleth out to be. **To the second** I say, that it containeth a promise of such quietnes, and peaceable issues of these popular elections (as if ye turne ouer ecclesiasticall histories) neuer or sildome hath happened, but the cleane contrarie; and it carrieth an indirect accusation of all churches, both of elder and later times, to haue Put awaie faith and a good conscience: which for auoiding of sundrie inconueniences and mischeefes, haue abandoned these popular elections, which truelie in this forme and maner, as our author setteth forth, and would here haue established, I perswade my selfe, no church reformed or deformed doth reteine, sauing the Anabaptists, if so be they haue any settled church anie where. Who in that respect were wont to object against the ministers of sincere churches, called by some magistrates appointed

Indirect accusation of other churches.

Bullinger. ad-
ver. Anabap.
li. 3. cap. 4.

appointed for that end, to haue no calling but from men; whereas they themselues, being chosen by the suffrages of the whole multitude, thought their calling therefore to be of God. Now it had bene verie requisite, that our authoꝝ for the approuing of these democraticall elections the better vnto vs, should (with pꝛoofe out of scripture for euerie particular) haue shewed; Whether women and childꝛen of some reasonable discretion, should haue voices in the election of their minister? Whether he should be chosen by all, by the greater part, oꝝ by the better part? Whether the wiues voice should be accompted seuerall, oꝝ but one with hir husbands, oꝝ whether she might dissent from hir husband, oꝝ the sonne from his father? Whether the patrone not dwelling in the parish shall haue a voice, oꝝ dwelling there but a single voice? Whether the greater number of voices shall be accompted in respect of all the electoꝛs, oꝝ onelie in respect of him which is to be chosen, hauing more voices for him, than any other hath? Whether all absent shall be accompted to dissent oꝝ to assent? Whether sicke men, and other necessarilie imployed, that would come and cannot, may send their pꝛoctor being no parishioner, oꝝ commit their voice to a parishioner?

30. Section. Pag. 62, 63.



In this section treating of the last qualitie which our authoꝝ hath noted to be required in a minister, I doe obserue, that he is contented with a Competent and sufficient skill in the Latine toong in a minister, which so earnestlic afore would haue impugned the distinction of competencie and eminencie in learning requisite for the furnishing of a minister. Although I (for my part) cannot see, how this high skill in learning can well be settled in any, that is but slenderlie learned in the Latine toong. And yet the statute here mentioned, see-

13. *Eliz. c. 12*

The iudgement of the statute for a sufficiencie to be a minister.

Plaine falsification by the authoꝝ.

meth to allow, that a speciall gift and abilitie to be a preacher, may be in some that hath not the Latine tongue as is required. And therefore it is said in the disjunctive, Except he be able to giue an accompt of his faith in Latine, &c: or haue a speciall gift and abilitie to be a preacher, he shall not be admitted to the order of deacon or minister: so that hercof we may gather, that the law accompteth Abilitie to be a preacher a speciall gift, neither incident noꝝ required to be of necessitie. in euerie minister, for that some wanting this abilitie, yet being qualified as is there otherwise prescribed, may lawfullie be admitted by the Bishop. Whereby both the popular election and the learning and abilitie of a preacher, by our authoꝝ of necessitie byged to be in euerie minister, throughout this whole treatise, yea euen by our lawes vndoubtedlie now in foꝛce, is quite ouerthrowne. Further, where our authoꝝ alledgeth, as though it were statute, and noteth it with the like asteriske, that if any shall be ordeined contrarie to any prouision of that Act, then is he no minister at all, he doth verie shamefullie falsifie the words of the Act. For the words are these in the Act: All admissions to benefices, institutions, and inductions to be made of any person, contrarie to the forme or any prouision of this Act, and all tolerations, dispensations, qualifications and licences whatsoever to be made to the contrarie hereof, shall be meerlie void in law as if they neuer were. Wherein there is no one word of ordinations oꝝ admitting into orders. At the shutting vp of this matter, he vseth indefinitelie, against our Bishops, an ironical surmise, as though vpon their examinations, it would fall out, that they had not answered the trust committed vnto them in ordering deacons and ministers, noꝝ that their dealings had bene therein faithfull, iust, and equall. Truelie he that hath most ouersene his dutie in this respect, if any such be of them, I dare auow, he shall be better able to approue his doings by law, and good conscience: than those whom this cauiller most affecteth, shall be able

able to doe their words or deeds, or than he himselſe ſhall be able to beare out his ſlanders, innouations, cankered ſpite, falſifications, weſtings, fallacies, & childiſh reaſons, contrarieties, vntruths, and paradoxes ſcattered in this booke.

31. Section. Pag. 63, 64, 65.



The Abstractor hath not beene be- like farre inough yet distracted from the purpose which he handleth, but for the ease of his stomach, which else for curst hart would burst, he must needs tell vs, what punishments the canons doe inflict vpon such Bishops

as promote vnworthie men vnto orders: assuming alwaies all such to be vnworthie, as are not so qualified as he hath scored out. But he is a verie temperate and cole- bained man, for he dooth it, but vpon supposition, that the Bishops haue not answered their trust, and yet in other places he telleth vs of Our sir Iohns, the asses of our schools, of our dumbe, silent, and idol-ministers, so often & so thicke together, and what great masses of monie may come by their displacings, to hir Maiesties cofers, as though we had none or verie few other besides such. Yet if they were such, and so foule as his mouth is in this behalfe, seeing the canons, whose obseruation he vrgeth, doe forbid such contemptuous speeches against them, he sheweth himselſe to be too farre ouersene herein.

* Although knowledge be verie necessarie vnto priests for teaching, yet we may not speake ill of simple priests, though they be but scholars, seeing the priestlie office ought to be honoured in them, and

* hir Maiesties iniunctions doe command men to vse euen Those priests that haue small learning, and which of long time haue fauoured fond fantasies, rather than Gods truth, charitablie and reuerentlie for their office and ministrati- on sake, bicause their office and function is of God. Also the reformed churches in France, are farre from this im-

H. iij.

modestie,

* c. c. m. x. i. n. a.
iuncto S. lices
autem Ext.
de hereticis.

* Reg. iniunct.
art. 28.

* *Art. 22. des
aduertise-
ments en la
discipl. de
France.*

modestie, * where in their policie and discipline they haue thus decreed euen for the immunitie of popish priests and monks : *Toute violence, &c.* All violence and iniurious words against those of the church of Rome, and namelie against priests and monks, shall not onelie be hindered, but also shall be corrected and restrained so farre forth as possible may be. The conclusion (for prooue thereof he boucheth diuers lawes and canons) is, that Both the man vnworthilie promoting, and the man vnworthilie promoted, is to be deposed. Where if I should deale striclie with him as a lawyer would, I could tell him that there is great difference in law betwixt one vnworthilie promoted, as perhaps some solemnitie required by the canon being omitted, and one promoted being vnworthie. The first case is so farre from * deposition, that it deserueth but a temporarie suspension from execution of some part of their offices, at the discretion of their superiour. For prooue of his conclusion he bringeth three allegations, speaking no word of deposition, but of punishment to be inflicted, which without expresseing can neuer be extended to deposition; *In ambiguis quod minimum est, sequendum; & pro mitiori pœna semper est interpretatio facienda.* And yet the first and the third of them doe speake of Bishops and superiour prelates, and not of inferiour ministers. The first is * not aright quoted nor alledged. For the punishment there set downe for confirming an vnworthie prelate, is sequestration of the fruits of his owne benefice, and bereauing him of power, to confirme the next successor: and in the words immediatlie * next following by him not alledged, as once afore hath bene shewed, a canonically punishment by reference vnto canons to that end in force, is appointed to the Bishop, which shall preferre an vnworthie man to holie orders or ecclesiasticall dignities. In his third allegation by ioining of two seuerall canons as one, the one of them appointing a milder punishment than the other, he hath disaduantaged his owne cause. For where two punishments are laid downe,

* *c. literas
Ext. de tem-
por. ordinand.
glin I. q. I. c.
si qui Epi.
ver. ordina-
tionis.*

* *c. nihil est.
Ext. de elect.
& elect. po-
test.*

* *S. episcopi
ibid.*



done, the lesse is to be inflicted. But neither of these canons * do speake of a man unworthie in respect of learning, but uncapable of orders in respect of some other canonical impediment, as infamie by law, bigamie, and diuerse such like there specified.

* c. ex penitentibus 50.
distinct. & c.
aliquantos
51. diff.

But the glosse reconcileth not onlie that canon, but all other which speake of disposition of him that ordaineth one unworthie; with those canons, which do suspend him onlie from ordination of others: bicause the * first are to be vnderstood, when of contempt and pertinacie the Bishop shall with pretended purpose against the canons ordeine such: and the other, when he ordeineth uncapable men onlie of ignorance or negligence. And againe, this doubt in the same place is better resolved; seeing there are diuers

* Gl. in c. si
qui Epi. c. q.
I. verb. ordi-
nationis.

penalties for one offense, and that the * latter canons do prefer the milder of both, that therefore the easier penaltie must in both respects be practised. And therefore I muse at the boldnesse of the man, who leauing out the word *Alias*

* c. grane Ext.
de prebendis.

Otherwise; to wit, when the Bishop of pertinacie shall ordeine one vnworthie, he alwaies deserueth to be deposed, dare alledge the words of the glosse generallie, as though in all cases this decision had place. The * next glosse is likewise wrong quoted out of the legatiue constitutions of Orho. but serueth not any whit for prooff of his conclusion,

Falsificatio.

bicause it mentioneth no penaltie: but onclie ingretheth the fault of him that doth ordeine anie unworthie. His argument of comparison which he borroweth of the glosse of the ciuill law, to proue that the archdeacons fault or oversight cannot excuse the Bishop, no more than a pilfering sailer shall excuse the owner of the ship (who taketh fare of his passengers) from restitution of that which is embezeled: though great diuersities may be taken betwixt these two cases, euen to this intent, yet I will not greatlie gaine-saie: seeing it is both lawfull and expedient, that the Bishop himselfe should examine them for their sufficiencie in learning; adding this neuerthelesse,

* Gl. in c. uni-
cum const.
Orthonis de
scrus. ordi-
nand. verb.
quare.

that

* *Glibid. ver.*
* *per Episco-*
* *pum.*

* *Arg. c. acce-*
* *pimus Ext.*
* *de erat. &*
* *qualis.*
* *c. ea que.*
* *Ext. offi. de*
* *Archid.*

Contra-
rietie.

that the author here hath manifestlie falsified the glosse, where he simplie saith the Bishop is to be punished for the archdeacons fault committed in examination. For the
* glosse saith to this purpose; And indeed if the archdeacon doe it by the Bishops commandement, then is the Bishop punishable; but if the archdeacon doe it of his owne head as incident to his office, then must he himselfe abide the penaltie of lawe. That which he saith of A deed once doone, which vpon a cause newlie arising sometimes may be altered, cannot be applied to this, that a Bishop may reexamine those whome the archdeacon hath examined, though it be otherwise lawfull; and in like maner, can I not coniecture, for what purpose he bringeth, though with a wrong quotation, * concerning the remissiones of an archdeacon in safe keeping certeine ornaments of the church, required to be punished by restitution of such things, as by his default were perished, except he thinke hereby may be insinuated, either that the archdeacons office alonely doth consist in such like duties, and not in examination of ministers to be admitted, or else, that as he is to be punished for his negligence in these small matters, so Bishops for such offenses as they shall commit about dealings of greater consequence. Which if it be his meaning, I must needs iudge that he is verie mysticall that can fetch about so farre, to speake so little to purpose. But all these canons, if they were as pregnant to proue deposition as he would haue them, are wholie ouerturned by his owne platforme of popular election. For I thinke he would not endow the Bishop with an authoritie to ordeine another, when all the people haue made choise of their minister, nor yet punish him for their foolish choise.

32. Section. Pag. 65, 66, 67.



His section, with some following, being to shew the course of punishment against ministers being vntwozthie of that function: in the first place

place for proove hereof, is brought the deprivation of a Bishop, against whome manie things were objected, and he himselfe had confessed that he neuer learned any thing *De Grammatica*, of the Grammar, nor had read any Grammarian, no not Donat : yea, by the euidence of the fact it selfe it appeared that he was *Illiteratus & insufficiens*, Vnlettered and insufficient. All which things ioined together, being the ground of his deprivation, if he will applie to his purpose ; (though I thinke some ministers in our church vnworthie that calling) yet I beleue he shall find verie few or none, within the compasse of this decision, which neuer learned any thing of their Grammar. And yet neuerthelesse, his reason being *A maiore ad minus affirmatiue* dooth not follow. Seeing it is notozious, that lesse learning is requisit in an inferiour minister, than ought to be in a Bishop. And it seemeth, that if this Bishop had learned but his Grammar, by want whereof he was apparentlie insufficient, this gentle pope, in fauour of some not much deeper clearkes sitting in that See, as the pope that writ *Fiatur* for *Fiat*, in *despectum omnium Grammaticorum*, and he that to an ambassadoz did so prettilie Italianize in his Latine, *Facit magnum frigum*, and being aduertised soflie by one of his cardinals, that it should be *gus, gus*, as scholarlike did amend it, with *Facit magnum frigumgus* : it is likelie (I saie) he would haue tolerated it in this Bishop of Calinea. And therefore it is not verie safe, to exact no better measure of learning in a minister, than this canon seemeth to doe. Herebpon our authoꝝ groundeth a wish for a generall visitation, but verie vnperfectlie in my poore conceit, for he requireth neither learning in law, experience, nor discretion in his visitoꝝ : he anthoriseeth them to depriue onelie, vniust possessoꝝ, which would hardlie be racked vnto all, though not so sufficientlie qualified as he requireth : he endoweth them with no absolute power to place fit men in their romes, without sharing out any thing to the patrones, least he should displease some, that perhaps with all things refoꝝmed

med saying that; nor yet telleth vs thence so manie places in short time might be furnished with sufficient preachers. But he is of a sure ground for the promise of augmentation of hir Maiesties treasure: for he saith, that the first fruits vpon avoidance of vniust possessors, will be more Than the best subsidie that hir Highnesse hath leuied of them. But saith not more than of them, and of all other ministers besides. Which must needs be true, for the greatest subsidie was but sixe shillings in the pound, to be paid in thre yeares, whereas the new incumbents comming in vpon displacing of the old, should paie the whole value of their benefices, in the space of two yeares. His first allegation concerning an abbat threatened to be deposed, if he be negligent in his office, is altogether impertinent to proue, that a minister vnworthie in respect of learning, or because he is not able to preach, is to be deposed. But I obserue that where the law is, Let him as often as he may be with his brethren in the couent, our author (I know not to what aduantage) doth translate thus: How much more ought he to be frequent with his brethren in all things? The second allegation out of a canon of *Triburiense concilium*, toucheth onelie an abbat that is criminous in life, and negligent in his gouernement, to be worthie of deposition, and cannot be extended to vnworthines of a minister, for insufficiencie of learning. Maie, though ministers that be scandalous to their calling may be depriued or deposed, according to the atrocitie of the fault; yet the same punishment that is inflicted vpon abbats, who are tied to a stricter rule and obseruance, cannot alwaies be extended by identitie of reason for the like offenses vpon ministers. For the * lawe noteth, that abbats for causes of lesser importance, yet being against the rules and customes of their order, may be remoued from their administrations. Yet to the intent it may appeare how impertinentlie these places of an abbat are brought, and how vnskillfullie he reasoneth, it is to be remembred; that although an exacter and more

Corrupt
translation.

* c. per. tuas l.
in fine Ext. de
simonia &
Glin verbo
cantus 18. q.
2. c. si quis
abbas.

more

more strict course of conuersation be required of an abbat, than of an inferiour minister, yet lesse learning will serue his turne a great deale to reteine him in his office: therefore * Panormitane concludeth, That an abbat shall not be deposed bicause he is ignorant in Grammar, if otherwise he be skilfull in the rules of his order, and discreet, by which rules his function is limited: to which purpose serueth, that in abbats diligent industrie rather than learning is required; *c. multa, ne cler. vel mona.* Also in old time abbats were laie men. *c. a subdiacono. dist. 93.* Therefore it is sufficient for him, if he be discreet and vigilant ouer his flocke. *8. q. 3. c. dilectissimi.* Which our autho^r perhaps perceiuing, dooth shew more nere to purpose, that an inferiour minister may also be depriued by the Bishop, if he be vnprofitable and vnworthie. But what the lawe will account such vnworthines, vnprofitablenesse, or negligence to be, he hath not yet shewed, and therefore is farre from prouing his issue, that euerie one is an vnworthie minister, and to be depriued which is not able to preach. And seeing he alledgeth this for law, whie shall not the words following, which he cunninglie cropped off with an, *sc.* be law also: *videlicet*, Both * institution and destitution of priests dooth notorioullie belong to the office of the Bishop. *Be* like he was loth to attribute so much vnto them, as must either cut off his popular election, or improue that, which he saith afterward, against all absolute ordinations. His next allegation which he lefth without * quotation, *Vagatur extra oleas*, and speaketh of negligence, which may be such as deserueth deposition. And this may as well happen in a minister worthie and sufficient, as in one vnworthie of such a place in respect of disabilitie. And yet it is not euerie negligence, but grosse negligence, as the glosse there telleth him, which the lawe matcheth with *Male engine* that deserueth deposition. *¶* For *Magna * negligentia culpa est, magna culpae dolus est*: as if the minister being required to baptize a child, being perie weake, shall vpon a dissolute negligence omit

* *Ab. inc. ult. Ext. de astate & qualitate.*

* *Facit. 15. q. 7. cap. I. & ult.*

* *c. diffin. est dist. 81.*

* *L. 226. magna ff. de ver. signif.*

* *1. q. 1. c. ne quis per ignorantiam.*

* 1. q. 1. si qui
Epi. Secce.

Falsification
manifest.

omit to doo it, whereby the child dieth without baptisme, he deserueth deposition. That which our author alledgeth as out of the * canon, are indeed the words of Gratian, collected vpon the canon, are notablie by our author falsified and wrested. For whereas Gratian saith; Behold where Bishops doo escape without danger of their estimation (for ordeining such ministers as by lawe they ought not) so that they may as priests administer all other sacraments: yet from this onelie, (*Videlicet* the sacrament of ordering) not onelie for heresie, or for any great fault, but euen for negligence they are remooued. Our author cutting the sentence off by the waste, and applieng that which is spoken of the Bishops negligence onelie, (whereby he suffereth some ministers to escape his hands whome the canons allow not to be ordeined) vnto cuerie minister, dealing negligentlie in his function, saith in stead of it, thus: He shall not onelie be remooued for heresie, or other greater offense, but for negligence also. Which corruption, though it be foule in it selfe, it dooth not yet beare out his issue, that a minister for insufficiencie to preach, is to be accompted vniworthie of the calling, and therefore to be remooued.

33. Section. Pag. 67, 68, 69, 70.



He that dare wrest and falsifie texts when he quoteth them, whereby others may examine them, it is to be doubted much more that he will do it, when he leaueth them without quotation, as in this section he hath done his two first allegations out of the ciuill lawe. And therefore, as now they make not anie whit to his purpose, so being by me touched with the originall, I find they cannot carrie anie sheiw or colour with them. For what dooth the Remouing of such a cleaerke that either will not doo seruice at all, or of such as faineth himselfe to be one when he is not, or the * inhibition to barrers

* L. qui sub
praetextu C. de
sacra eccles.

hers

hers and exchangers of monie, mere laie men, That they leaue not off their trade vpon a bare title of collegiat men, make for p^{ro}se, that a minister vnworthilie promoted is to be deposed: State, the latter place which he was vnwilling to quote, is by no colour appliable to this purpose. Of those (saith the law before the words by him alledged) which vnder a pretense of deanes or collegiat men, though they doe not execute that office, doe yet go about to withdraw themselves from other functions, we thought good to meet with such craftie packing; least any should vnder colour of an office which he dooth not execute, be disburdened of another dutie of him required. Now these deanes and collegiat men were certeine in Constantinople, which * being appointed out of seuerall companies of trades, did partlie take care of burieng dead bodies, and partlie were employed in other publike and necessarie affaires of that citie. The reason of these lawes and canons which he bringeth, are foure in number, the first not alledged but gathered (as it seemeth) out of the text quoted, is; That a possession without canonicall institution, is no sufficient establishment in a benefice. And this institution (that * decretall saith) must be giuen by the Bishops diocesan, or by his officiall, to whome it apperteineth. I will easilie grant vnto him, that sole possession will not releue any minister, either worthie or vnworthie, for reteining of a benefice without institution. Hereof will follow, that all such as haue canonicall institution, are without the compasse of deprivation as in this respect alone. This matter of sole possession without title, he also enlargeth out of a summarie of the ciuill lawe; that Sole possession maketh not a senator or captain, but lawfull election. For which word Election, as it seemeth, he rather chose to vse this summarie, than the law it selfe, which is, that A * man is not made a decurion, onelie bicause his name is written in the table, vnlesse he be also created a decurion according to lawe. These decurions in the common-weale of Rome, were in cities and towne

* Nouel. 43.
c. 59. c. Alc.
c. ult. lib. I.
papippon.

* c. ex frequentibus
Ext. de infir.

* L. 10. ff. de decurionibus.

* L. 33. c. de
decur. li. 10.

* L. 11. ff. de
decurio-
nibus.

* L. 6. C. de
decur.

corporate, as senators were in the citie of Rome, but not senators in deed, nor enioyeng all priuiledges as senators. And in this regard the law saith, A * decurion, or (if I may so terme him) a senator of his owne court. And therfore our author descrieth his ignorance in translating him a senator, but most of all when he engliseth him also a capteine. But if so be herein any thing had sounded to his purpose, yet he could not haue reasoned from the function of a decurion, to the calling of a minister, *Et ex aduerso*, except the lawe had made a paritie betwixt them. Else might I as well reason, bicause the lawe will not haue a * decurion chosen, aboue fiftie five yerres of age, that therefore a minister may not be ordeined aboue that age. And bicause a man * that cannot read, is not forbidden to exercise the calling of a decurion, therefore such a man may also be a minister.

The next is, bicause prescription doth not relæue him, that iniurieth any thing without a simple Meaning and vpright conscience. Which men so ordeined (he saith) doo not, but are vniust possessors in their owne conscience; therefore by their owne craft and guile, or lewd practise, they are not to reape benefit. If by his words So ordeined, he meane either all made according to the booke by law established, or all such as were made without popular election: then hath he left vs, by this collection, no ministerie in England, except perhaps two or three leape-lands, which like neither of order, nor ordering, on this side of the sea. But if he meane onlie such, as are not able to preach, then should he haue proued his Minor, that all such are vniust possessors, even in their owne knowledge: which now he taketh as granted by his olde wonted fallacie of *Peritiu principij*, which neuer falleth him at such a pinch as this. And seeing such ministers haue at the least, the outward forme of calling by law, and are to be intended to haue a perswasion that they are inwardlie also called, and (as all other men naturallie) are parcialie affected in matters tend-

tending to their owne worldlie behöfe, it can not be doubted, but that they will denie that that his assertion, that they should be guiltie to their owne consciences, of vntill possessing their places. Furthermore, his *ἑταῖρος* proposition is ἀλλότρια, a miere stranger to this purpose, seeing no minister claimeth the holding of his roome by prescription, which requireth a number of yeeres for the fulfilling of it, but by a iust & canonicall title at his first entrance. Againe if we esteeme it by the ciuill law, a prescription of ten yeeres, betwixt those that be present; & of twentie yeeres betwixt those that be absent, is sufficient, where good faith was ment at the beginning: that * is, where the prescriber did not knowe the thing to be another mans, although perhaps he doubted thereof: notwithstanding that afterwards within the procelle of that time, he knew it to be another mans: yea, by the law, a man which at the beginning knew it to be another mans, and therefore was *Male fidei possessor*, may in thirtie or fortie yeeres prescribe against the true owner: both which by the canon law are vtterlie disallowed with good reason, and according to Gods word. By which may also appere by the waie, that the canon law reformeth to good purpose, something in the ciuill lawe, and therefore is not wholie to be contemned. Of that rule of law, That no man is to be enriched with another mans iniurie or losse, I cannot see how he can gather the deposition of all ministers, which be no preachers: except he will saie, that some preachers without living, be hereby dammified or iniuried, which would take those livings, if they were void. To this I saie, * that which is done by disposition of law, is not accounted any mans iniurie or losse: as * if I giue you a bill of my hand for the repaiment of a certeine summe, which I hope to borrowe of you, if you afterward denie to lend it vnto me, and yet keepe my bill, and I sit still, and let it alone by the space of two yeeres, it will be then too late for me, to object in barre of the debt, that I neuer receiued the monie: and therefore

I. s.

you

*Text. in l. unica C. de vsucap. transfor.

*L. qui sciit S. bonae fidei. ff. de vsuris.

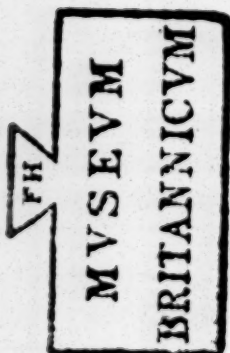
*L. si quis emptoris. S. quod si quis C. de prescrip. 30. annorum. *c. quoniam omne, & c. vigilanti Ext. de prescriptionibus.

*Dynus in reg. locupletari.

*L. in contrahibus c. de non numerata pecunia.

you shall by law recouer the debt of me, to your enriching, and my great hinderance, notwithstanding this rule of law. Againe, it is not another mans losse or iniurie, for me to keepe that liuing, which was neuer his, nor he had cuer any interest vnto. And therefore these reasons are so farre from giuing strength vnto his former allegations out of the lawes and canons, to proue his conclusion, which yet being trulie vnderstood, is to be verified; to wit, that The abbettors and deed-dooers are to be punished with like punishment, that they helpe not any thing to proue the other his more particular conclusion; to wit, That a minister not able to preach, is vntwoorthie, or being in that respect vntwoorthie, is therefore to be deposed. Now from his reasons vpon generall rules of law, he goeth backe to talke Once againe touching the displacing of ministers that cannot preach, whom he calleth Idol-shepherds and hirelings, vnto his reasons of likelihood taken out of the ciuill and canon law. But two of his ^{*} places, which by quotations he sendeth vs vnto, containe no such matter as he alledgeth. And there is no such lawe as *2. carceri. C. de custodia reorum*, neither is there in that whole title any such thing of a gailloz as he alledgeth. For, it hangeth not together, that the gailloz which wittinglie and willingly offendeth, should be punished lesse grieuouſlie, than when he faulteth vntwillinglie and of negligence onlie. Of like sort is that his quotation of Feline writing vpon *C. ex literis Ext. de rescriptis*: whereas there is no such chapter where vpon he should write: and it seemeth he was deceiued by the annotations vpon Bartol. *In l. 2. §. ignominie ff. de hys qui notantur infamia*, where this place is indeed so quoted, though falselie. That which he speaketh, & setteth in an Italian letter, as though it were some lawe, but without quotation touching a souldioz, that by breaking the rules of warfare deserueth death, cannot be racked by similitude or comparison any further, than that a criminous minister may deserue deposition. But what is this to his sufficiencie in learning,

** Auth. de
collaboribus
iubemus col-
lasi. 9. de pœ-
nis in 6. c. de-
graduatio.*



learning, or his abilitie to preach : Where sacred Ant-
 nine the great, together with his father, did by their pre-
 script decide as is alledged : our author translating it, tel-
 leth vs, that he And his father before him haue answered :
 not much vnlike doltish Dorman our countreman, that
 translated *Diabolus est mendax & pater eius*, thus : The diuell
 is a lier, and so was his father afore him. Herevpon he in-
 sinuateth certeine Ministers to be pretended to forsake
 their standing, and onelie to weare the ensigne of the pro-
 claimed enemie to their Lord and maister. If he thinke all
 are but pretended, and doe forsake their standing which can
 not preach : besides that it is too vehement an accusation
 without profe; it is also vnproperlie spoken to saie any
 doth forsake that which he neuer had, nor toke in hand. By
 the ensigne of Gods proclaimed enemie woꝛne by mini-
 sters, it cannot be doubted but he meaneth such apparell
 and ornaments of ecclesiastical persons, as this church by
 law hath receiued, and hir most excellent Maiestie requi-
 reth. And therefore where this foule and slanderous mouth
 saith, they are Onelie the ensignes of Gods proclaimed eni-
 mie, he sheweth the poison of his stomach against hir sacred
 Maiestie, who hath commanded these ornaments and
 forme of apparell to be vsed. But if either he or any other
 hot braine whosoever, doe thinke that either they are vn-
 lawefull by a christian magistrate to be vsed, or being
 commanded, that the magistrate herein may or ought to
 be disobeyed, let them laie forth their reasons in breife syllo-
 gismes, without flaunt or flourish to dazle the eies of the
 simple, and they shall (God willing) shortly after see their
 boldnesse to be greater, than either their wit or learning.
 All the other quotations out of the ciuill and canon lawe in
 this section alledged (sauiing one which is impertinent)
 tend to shew either what is required of doctors in philoso-
 phie, physicians, orators, & grammarians about their seue-
 rall professions : or that as well they as iudges, for vnpro-

Slanderous
 speeches and
 factious.

fitablenes in their seuerall callings, may be againe remoued. And that therfore by the like reason, ministers for their vnprofitablenesse and vnablenesse to giue counsell, which he childishlie and ignorantlie termineth [To consult] may be depriued or depoled: assuming still as granted, all to be vnprofitable that are no preachers. If it if this were granted, yet is there great diuersitie betwixt readers, school-maisters, and such professors, who are chosen to be reteined so long, and no longer, than they are able and shall performe the trade of teaching and function, to the which they are allotted: and ministers beneficed, who haue a title for terme of life therein, and in respect of any debilitie or infirmitie arising, cannot be by lawe remoued during their life, but are in this case to haue a coadiutor appointed vnto them by the Bishop: ^a and therefore hereby this reason is ouerthrowne. Againe Rodol. Agricola ^b saith; That of all places, out of which reasons be drawne, none almost is of lesse force against an auditor that resisteth, than the argument taken of similitude. Furthermore, where ^c the matter is penall (as in those cases alledged) there an inference cannot be brought from one to another: bicause in penalties we argue not to the like by like; for ^d penalties go not beyond their owne proper case. But to put this matter quite out of doubt, and to shew the vanitie of this kind of reasoning once for all: it is well knowne to those who are but meanelie studied in lawe, that ^e although the rule be, that Where the same reason is, there the lawe also is the same, yet euen then when a difference can hardlie be taken and alledged, this rule hath manie limitations; namelie where some speciall lawe is repugnant to the argument, drawne from the identitie of reason. For as ^f Aristotle saith; It is no inconuenience for two probable masters, to be contrarie the one to the other. For there is lesse authoritie in arguments than in lawes, bicause right is ^g not to be established out of generall rules, but from especiall and

^a Arg. l. 83. §. sacram ff. de verb. obligatio. & d. l. §. si stichum.

^b Li. 1. de inuent. ca. 2. §.

^c Abb. in c. cum dilectus Ext. de consuetum. ver. prima quod.

^d De penis. dist. 1. §. pænæ, & 10.

And. super gl. & ita c. si postquam de elect. in 6.

^e L. non possumus 12. cum l. sig. l. 27. & 32. ff. de legibus.

^f Aristot. li. 3. Rhetor. ca. de solutionibus.

^g L. 1. ff. de regulis iuris, l. 5. ff. de probas.

particular decisions of lawe. For if right should not be gathered out of lawes, but from discourse of reasoning, and from generall rules which be gathered vpon the lawes, then would the lawe be not onelie infinite, but also vncertaine, yea and contrarie in it selfe: bicause the rules of lawe be almost infinit, and one reason may easilie be infringed by another reason. And in this respect Tullie *saith: In the ciuill lawe we are taught, not by disputations to and fro, which be infinit, and full of alteration, but by the authoritie and direction of lawes. Also this rule holdeth not; *where a man is adiudged or decreed touching some certeine persons, for such a decree is not to be dyatone to all cases which be alike. Lastlie this reasoning and interpreting any case by a like lawe, vpon the similitude of reason in them both, is onelie *permitted to him that hath soueraigne authoritie and rule, and not to those that onelie haue single iurisdiction, but much lesse to him that hath neither of both. Neither is our authoꝝ intent any thing holpen by Bartol. vpon *L. ff. de ijs qui notantur infamia*, bicause he hauing there shewed, that there is one degradation of souldiers or knights, verball, and another reall: and when two proceses, and when but one to that purpose are required, he saith: Those things which I haue said of the degradation of souldiers, the same is also to serue about degradation of doctors and clearkes: not noting that for the like offenses, they all are to be deposed, but that the like maner of processe is appliable to them all. As for that which is said, that He which vsurpeth the ensignes or armes of a doctor, being none, is guiltie of forgerie: can no waie serue for punishing such, as haue the outward calling into the ministerie, how vntwo? this soeuer: but such as doe vsurpe that calling, without any externall calling, whome other *Cannons more pregnant than this lawe dooth sufficientlie meet with.

*Li. I. de oratore.

*L. 7. si pupillorum §. si praetor. ff. de rebus minorum.

*L. II. Pomponius ff. de praescriptis verbis. L. 2. §. sed quia C. de veteri iure enucleando. L. II. §. cum igitur C. de legibus.

*Ext. de clerico non ordinato ministrante.

34. Section. Pag. 71.



Now at the last our author hauing quit himselfe like a man, and proued sufficientlie, at the least in his owne conceit, all ministers to be vnto this, and to deserue in that respect deprivation, which cannot preach: least perhaps the magistrats (though being by him so fullie perswaded) should neuertheless faint in this action, as not knowing what course to take in the maner of proceeding against them; he verie gentlie taketh the paines to tell them out of Panormitane, how they may safely proceed to depriue them, for their ignorance and want of learning. But he maketh his processe to reach vnto those onelie, who neither haue read any bookes of learning, nor haue bene taught by others reading vnto them; though his intended purpose was to disable all, notwithstanding they had both read priuatlie, and heard others, in diuerse sorts of good learning, if they were no preachers. And therefore he calleth all such, Idols, dumbe, bare mumbling ministers, and hirelings. But it is better to heare the words of Panormitane himselfe, than his falsified paraphrase vpon them. Note first (saith he) that want of knowledge is a lawfull cause to depose a man from a Bishoprike, and then is it said there is want of knowledge, when he knoweth not Grammar. Note also secondlie, that knowledge is not gotten except it be taught by another, or else he himselfe haue read bookes tending to knowledge. And so this maketh against them that will pretend to learne both without a teacher and without bookes: and heereof you may gather the practike of deposing a man in science ignorant: bicause it is sufficient if the witnesses depose, that he neuer read any bookes, nor euer went to schoole, or heard anie reader or teacher. So that we may easily perceiue our authors falsification hereof, when as he by his translation

*Panor. in c.
vlt. de etate
& qualitate.*

*Falsification
on by the
author.*

.Sec
ing
ued
one
ooz
de
cast
be
int
the
eth
may
and
bn-
ear
rm;
ithy
in
ers.
un-
the
ara
ow-
like,
n he
ow-
elfe
And
rne
of
nce
ofe,
or
err
his
lou

translation of Panormitane, omitteth wholie that Want of knowledge is ignorance in Grammar, and maketh both we private studie, and the hearing of a teacher, to be iointlie requisite for the escaping of this ignorance: whereas in truth Panormitane requireth but either the one or the other to this purpose, and therefore with the coniunction, and, taken *Coniunctim & non diuifim*, Panormitane saith; A man cannot learne without a teacher and without bookes both: as plainelie appeareth by the disjunctiue following, whereof if any part be true, all is true. Also Panormitane speaketh here, not of euerie inferiour minister, but of a Bishop: nor of want of any other knowledge, but of Grammar. And least of all by him is it required (as our author seemeth to doe) that a minister should learne that strange booke Of controuerfies of the gospell. Whereby may appeere that it is but a lose & vnperfect rule to mesure out a ministers learning or abilitie by, when no greater stufte than Grammar is necessarilie required of a Bishop.

And therefore the same author in * another place saith: A competent or reasonable knowledge is sufficient in a prelat, neither is it any lawfull cause to resigne and giue place to another, if he want an eminent skill. And againe; What if a prelat be ignorant, but be such as may easilie learne? The glosse saith, he may learne, and then licence to resigne shall not be granted, and to this he is bound, although he be an old man. And therefore he in generalitie saith; Onlie that crime is of sufficient force to depose a man, which hindereth the execution of his order, though afore he haue beene solemnelie penitent. And that this skill and knowledge is in no greater matters, than in Grammar, he declareth plainelie thus: I * aske (saith he) concerning him that is ignorant in Grammar, and yet by vse dooth speake perfectlie, if such a one be alreadie preferred to a Bishop-prike or other dignitie, whether he shall be deposed? *Io. de Deo. li. 9. r 6.* holdeth, that if otherwise he be profitable to the church, he shall not be deposed. And to this (decision

* *In c. nifi.*
Ext. de re-
nunciati. ne.

ibidem.

ibi. l. c. m.

* *Panor. in c.*
ult. in fine
Ext. de gra.
& qualita.

against the Bishop of Calinea) he answereth, that other matters (as heere appeareth) were objected against him, and to this purpose maketh this : He that knoweth the meaning of the lawe, though hee haue not the knowledge of it, is borne with : 38. *Distincti. c. sedulo. l. scire leges. ff. de legibus. & de consecrat. dist. 2. c. primus quidem.* Also their dutie may be by others supplied, *c. inter cetera, Ext. de officio ordinarij.* Which place plainelie speaketh of want of knowledge, in which regard a coadiutor may be appointed, 7.9.1. *c. non autem c. ex parte, Ext. de clerico agrotante.* And as to the lawes that may be brought to the contrarie, 25. *dist. S. nunc autem. 8.9.1. c. qualis. 81. dist. c. statuimus,* he answereth thus, that they are onelie to be vnderstood of those that are not yet promoted. So that if our author will weie our inferiour ministers learning, in no other scales but these, there being (I thinke) few or none, no not of the meanest sort, which haue not bene trained vp in Grammar vnder some scholemaster, or at least by their owne priuate industrie: he shall be so farre from deposing any great number of such as be already ordered, though their ignorance otherwise were not tollerable, so that their life be not also scandalous : that it may truelie be said, his deuise would not so much enrich hir Maiesties treasure, as his booke hath betraied his meane skill in law, and his cankered affection towards the present state, hath slandered hir Maiesties most renowned gouernement for propagation of the gospel, & hath troubled the quiet repose & vnitie of this church.

35. Section. Pag. 71, 72.



It may appeere (I hope) sufficientlie by that which hath bene before deliuered, that there is no cause whie we should flie to a disiunction of A simple curat, a rurall priest, or a plebeiane prelat, by himselfe onelie surmised, for the auoiding of any of his
Rurall

Rurall reasons, too Simple to dr̄ue vs to anie such poore shifts. For setting aside a flood of words, vaine lie now and then puffed forward by the wind of a discontented mind, and furious affection, I cannot call to remembrance that I haue perused anie booke lesse furnished hitherto with pithie prose, lesse approaching to the point of the issue pretended, or more confusedlie tossed to and fro by snatches, to resume that, which once it seemed he had relinquished; than this distracted Abstract doth. And here in this section, for that (as he verie generallie auoucheth) All lawes directlie doo inhibit a man to take vpon him an office wherevnto he is vnfit and vncapable; he inferreth A monstrous and damnable vsage to be tollerated in this church: for that some ministers are Such as know not for what, or how to present their supplication to God, neither what kind of diet they should set before his people. Cruellie I wish vnfaignedlie the gift of Gods spirit were doubled and redoubled vpon all of that function, yea that all the Lords people could prophesie: yet can I not without intollerable vnthankfulnessse to God, and great touch of his Maiesties gracious care, for the instructing of his people, so debase all ministers abilities, which be no preachers: as to saie, they know not either for what they ought to praise, or that the word of God is the onelie food to the soule of man. Or shall we saie, that none knoweth any thing, nor is able to catechize, or to exhort or dehort in any reasonable measure, but he that is a preacher publike lie licenced? Seeing it is notozious that euen in the reformed churches of France, according to which our men that haue their heads so full of church-plots, would seeme to haue squired out all their frame; there be certeine congregations tollerated, where they haue no publike sermons, but prayers and certeine exhortations. After, by waie of ampliatiō (as lawyers of later times terme it) he proceedeth to tell vs of others also, in learning farre surmounting those whome he had afore so disgraced, which are not fit to

* Art. 8. des
mariages en
la discipline
du France.

to be made strait waies ministers : namelie grammarians and poets from Winchester and Eaton, philosophers and rhetoricians of long continuance in the two Vniuersities, for that They must before shake off vanities, and forsake their vngodlinesse, wherewith they haue infected their minds in thole places. So that now he requireth such an exactnesse in learning and life, farre aboue that which the Canon law dooth require, that I feare me he would either leaue vs wholie destitute of all ministers, or else he would haue them so fined and refined, that the Quintessence must be in a verie few of his select clients. But the two Vniuersities are as slenderlie beholding vnto him for his contumelious report of them, as he was to either of them, which could purchase there no more sound reasoning nor modestie than in this booke is shewed. And I thinke it may be truelie auowed to the glorie of God, that the two Vniuersities are, and for the most part since hir Maesties happy reigne haue bene, as well stozed with sound diuines and preachers, as any foure Vniuersities whatsoeuer in forreine parts. And although some part of the old frugalitie and discipline is perhaps with the streame of time quailed, which is to be lamented; yet if the Vniuersities on the other side be laied vnto ours, in respect of order and discipline, they will hardlie carrie a bizard of orderlie Vniuersities. And what are those Vanities and vngodlinesse, wherewith those places infect the minds not of yonglings onelie, but of those Who haue spent manie yeares there? Belike a weauer may come from the shuttle, and a bare English clearke, or one with a little smacke of French, that neuer was in Grammar schoule, nor tooke degreé but at Botley, or in a scriueners shop, so he be bold and zealous (as they terme it) to gird at his superiours, and the orders of our church, may be allotted by him for a sufficient and a well qualified preacher: but if a graduate come from the Vniuersitie, he must be cast againe and new founded, and haue some countrie schooling, and be purstied seauen times,

per

per he can be made to beare this mans touch. So that now
I cease to maruell at some, whome I cannot call The asses
of our schooles, bicause they were neuer able to keepe any
exercises there, but onelie at Carefax or Kullie-locke in
Oxenford, and at the Pumpe tauerne, or the Howsen in
Cambridge: who being at the Vniuersities, were such
drones, that they were accompted *Non proficientes*: yet they
afterwards comming into some countries, and betaking
themselues to a beine of contempt of all order, and to a
stricnesse in godlie words, as the Phariseis did in exter-
nall conuerfation, were by a sudden Metamorphosis
transfigured in some singular mens conceits, into great,
side, wide, and deepe clearkes, to be wondered at, rather
than to be followed.

36. Section. Pag. 72, 73.



Here haue we another ampliati-
on of the rule of vnfit and vncapable
ministers, excludng all that haue
beene popish priests, quite from the
ministerie for euer, with a *Non obstan-*
te, whatsoeuer Popish lawyers which
surmise traitorously all the professors
of the gospel to be heretikes and schismatikes shall saie
to the contrarie. As for poperie, I doe by the mercie of God
disclaime it with all my heart, and the skill in the Canon
law, which I thinke he meaneth, I leaue to him that gathe-
red these his texts, whether he were Friar or lier, and to his
gentle Glossographer vpon them, if they will not thinke
themselues slandered, to be so burdened. But if any sur-
mise onelie in heart, as he writeth: I would to God for
the safegard of hir Maiestie and this realme, their hearts
were ripped thorough, and such thoughts written in great
letters of either side of them, that all men thereby might
see as much, as this man thinketh he doth. And if their
surmises haue also growne to words and open speeches,
I

** De consecra.
dist. 4. c. non
in vobis ex
Aug. ad Do-
natistas.*

Corruption
of the text.

** c. quia Ext.
de elect. &
elect. potest.*

*Gl. libid. in
verb. suscep-
rit. ex c. 1.
inf. de schif-
mat.*

I hope our author, for avoiding the danger of abetment vnto such, hath revealed vnto authoritie such traitorous surmises, before he published his priuie with them, in a printed pamphlet. In the enlarging of his assumpt, that Papists are heretikes, he speaketh not like a diuine, to saie, that anie being baptized (which is to vs as the couenant of circumcision was in the old law) is an alien from the couenant of God. For hereof it would followe, that a papist once baptized, and forsaking his poperie, should be baptized againe before he could be accounted in the couenant, and of the true church; which is plaine Anabaptisme. That which is said by him, of the force of the Act of parlement, concerning the submission of the clergie, is vaine and impertinentlie alledged, seeing that part of the act might remaine in force: though it had bene so, that the other part establishing all Canons, &c: had bene reuerfed and repealed. Now, although the act in the 1. yeare of hir Maiesties reigne is thought by many, not to stretch so farre as to make Papisme heresie, to that intent to punish them by the penalties of law appointed to heretikes: yet will I easilie grant, that dubbed papists in tearmes of true diuinitie be grosse heretikes, and some points of their doctrine to be both hereticall to GOD, and traitorous to princes. Neuerthelesse, the place quoted in the Decretals by our author, for prooue that therefore such vpon abiuration and renouncing of their schismes and heresies, may not be chosen, admitted or tollerated to beare any ecclesiasticall office, proueth no such matter. The words alledged, are his words and collection, flat contrarie to the text it selfe, which is; Whereas* you carefullie haue required whether you ought to confirme the election of him, which hauing abiured schisme, is returned to the vnitie of the church: I thought good to answer, that if he haue receiued no order of a schismaticke (so that nothing else doo hinder) I doo permit him by way of dispensation to be confirmed. Where it appeareth, that by dispensation of the superiour,

one

one which hath bene a schismaticke, may be admitted to a higher promotion. So that this place and the other being not so much as alledged to any further purpose, than to hinder such as had bene schismatickes and heretikes, from being admitted to those ecclesiasticall functions, which afore they had not: that part of his Maior remaineth yet naked, that such may not beare an ecclesiasticall office, and be tolerated in that place that they were in before. The second allegation manifestlie speaking of those, that being Heretikes, or beleeuers of them, &c: are not to be admitted to any ecclesiasticall benefice, or publike office, is notoriousely by him falsified, by a *Fallacie ab accentu*: where without

Falsificatio.

any interpunction, he translateth, * *Hæretici autem, credentes, receptatores, &c: ad nullum, &c: admittantur*, beleuuing heretikes, their receiuers, &c: let them not be admitted to anie benefice: because he would haue it sound, as though it were spoken of heretikes conuerted, and now become true beleuvers. The falsehood and vanitie whereof appeareth, for that it is no reason, such as fauour a true beleuer, though he haue bene sometime an heretike, should be debarred from ecclesiasticall liuing. Also this his sense of this canon, being in force as he saith, doth exclude all men in England, and their children and nephewes, from bearing any publike office, if euer they were papists in times past. Furthermore, by this interpretation, the beginning of this Chapter would hinder all that haue bene papists from christian buriall, and procure such as are already buried to be digged by againe; euen the verie summariie of that s. ouerthroweth this wilfull and childish corruption.

The preferment (saith Domin.) of heretikes, of those which beleuee them, or fauour them, &c: is of no force or validitie.

In summa ibid.

In the * same title, those selfe-same words are againe repeated, sufficientlie conuincing his interpretation. Againe the law it selfe doth plainelie set downe the true meaning thereof in these words; This * truelie that is spoken of the children and nephewes of heretikes, beleuvers of heretikes,

* *c. v. commissi. ibid.*

* *statutum s. hoc sane ibidem.*

and

and such of like sort, seemeth to be vnderstood of the children of those that either be still such, or which may be prooued to haue departed this life being such: and not of their children, whome it may appeare to haue bene reformed, and incorporate againe to the vnitie of the church. And him that desireth further euidence in this matter, I remit for breuitie to the * places here quoted. The contrarie of this doctrine of his, may be prooued by the example of Aaron, who was an idolater or an abbot of idolatrie in the golden calfe, and yet was not vpon his repentance put from his priesthood. Likewise by Peter, whose reuolt and temporarie apostasie in denieng his maister Christ, was no lesse hainous, than the sinne of our idolatrous priests, who for the most part sinned but of ignorance in that general blindness: and to the like end also * this example is else-where alledged. Likewise Augustine, afterward a famous Bishop, was by the space of manie yeares a detestable Manichee, as he witnesseth of himselfe. Also Tharasius the patriarch in the councill of Meldis, being the seventh councill, propounded thus to the whole councill: Dooth * it please you, that those which haue returned from heresie, shall reteine their former roomes? The holie moonkes answered; As the sixe generall counsels haue receiued those which haue returned from heresie, so doo we receiue them. And the whole councill answered; It pleaseth vs all. And Basilius the Bishop of Anchira, Theodorus the Bishop of Mirea, and Theodosius the Bishop, were willed to sit according to their degrees in their seates. And a little before the said Patriarch saith; Behold manie bookes of canons, of synodes, and of ancient fathers haue bene read, and they haue taught vs to receiue those which returne from heresie, if there be no other cause in them to the contrarie. And the glosse * there gathereth the whole summe of that action thus: They decreed, that they who returned from heresie, were to be restored to their former estate, so that in writing they doo renounce the heresie, and make profession

* Gl. in c. 1.
ver. nota de
schism. in 6.
c. si aduersus.
c. excommu-
nicamus. S.
credentes. c.
excommun. 2.
S. si qui au-
tem Exr. de
hereticis.

* c. ut consti-
tueretur 50.
diff. ex Aug.
ad Bonifaciu.

* c. conuenien-
tibus 1. q. 7.
ex concilio
Meldenfi, siue
septima sy-
nodo.

* Gl. ibidem.

profession of the catholike faith. But those are not so to be receiued, which of purpose procured themselves for the subuersion of our faith to be ordeined by heretikes. **Againe**

saith * the canon: Likewise by dispensation, in the verie councill of Nice, it was decreed concerning the Nouatians: that vpon their returne againe to the church, they might be receiued to orders.

There is also * set downe the forme of an abiuration for a Bishop, returning from schisme. Further Leo * saith concerning a Donatist: Although Maximus was vnlawfullie of a meere laie man ordeined (suddenlie) to be a Bishop, yet if he now be no Donatist, and be free from a schismaticall spirit, we doe not thinke good to put him from that Bishoplie dignitie, which but so he hath attained.

Mention * also is made of one Daibertus, which hauing taken order of deaconshope of one Nezelon an heretike, which also had none other ordination but of an heretike, was afresh made a deacon; not that the order was reiterated, but bicause he could not be said to receiue that at anothers hands, which the partie himself had not.

Augustine * speaking of the repentant Donatists saith; Let them haue a bitter sorowe of their former detestable error, as Peter had vpon feare of his lie, and let them come to the true church of Christ, the catholike church their mother: and let them be clearkes and Bishops in that church profitablie, which before carried hostile minds against it; we doe not enuie them, but we imbrace them, exhort them, and wish it of them, and whome we find in the hedges and high waies we vrge to come in.

And the Decretall epistle dooth no otherwise debarre heretikes being ecclesiasticall men from continuing their function, but * when vpon the finding out of their error, they shall refuse presentlie and willingly, to returne to the vnitie of the catholike faith.

And touching such * canons as in apperance at the first seeme contrarie: the * glosse verie truelie reconcileth them together saing; By common right none that returneth from heresie may be ordeined; but such are dis-

spensed

* c. quod pro remedio §. similiter ibid.

* c. quotiens ibidem.

* c. maximum ibidem.

* Daibertus ibidem.

* c. ipsa pietas in fine 23. q. 4. ex August. ad Bonifacium.

* c. ad abolendam.

* c. omni. I. q. I. c. si qui presbyteri. I. q. 7.

* c. nos consuetudinem, dist. 12.

spensed with, as when they are suffered to be preferred to the lower orders. *1. q. 1. c. si quis heretica.* The dispensation is full when he may be made priest, but no further, *1. q. 7. c. conuenientibus.* It is more full, when he may be made a Bishop, but not a Primate, as in this place: it is most plentiful, when he may be promoted to all other dignities, *23. q. 4. c. ipsa pietas.*

Pea besides the continuall practise and custome of this realme, euen in hir Maiesties iniunctions, made the first yeare of hir blessed reigne, of Priests then, which had but small learning, and had of long time fauoured fond fantasies, rather than Gods truth (which must, considering the time then, needs be vnderstood of massing priests) it is affirmed, that Their office and function is of God, and therefore that they are to be reuerenced. And the * statute clerlicke decideth the tollerating of all priests in their functions, ordered neither in the time of king Edward, nor in hir Maiesties reigne, so they publikelie did testifie, befoze a time there prescribed, their vniformitie with this church in matters of religion. By the practise of our church (after God had opened their eies to see the truth) they were not onely tollerated, but some of them aduanced by our godlie Princeesse to the highest dignities in it. And God did not onlie singularlie blesse their ministerie towards others, but vouchsafed the persons of some of them the crowne of martyrdome. Euen in the reformed churches of France, thought of all other by our men most strict, and worthiest of imitation, such as had bene popish priests (as may appeare) were tollerated to continue their function, and to reteine their benefices being conuerted to the gospel. Come
 * *ie ne veux, &c.* As I will not (saith Viret) at all condemne the tolleration vsed towards such, for christian charitie sake, and bicause they should not bee driuen to despaire: so would I also desire they should vnderstand, that they may not hold those goods with a good conscience, except they labour to the vttermoſt of their power, according to the estate

* 13. Elza.
cap. 12.

* Pierre Vi-
res in De-
calog.

estate whereto God hath called them, to the edification of the church, and the releefe of the poore, whose goods they inioy. And to this effect he also speaketh more at large in an epistle written to the faithfull. And it is contained in the *discipline set downe by all the reformed churches of France, that Bishops, priests, and monks, converted to the gospel from Poperie, might be assumed to the ministerie of the gospel, after the confession of their faults and errors, and good experience had of their conuersion and doctrine. The like may be said of other churches abroad, which for their first planting vsed the ministerie of notable men, which before had bene Massing priests. Paie, it were a manifest abridging of hir Maiesties prerogative roiall, to bind hir Highnesse hands by such Canons, if there were any, from aduancing men in all other respects fit for the vse of the church, being against both hir Maiesties owne practise, and hir most excellent brothers the vertuous K. Edward. So that we may conclude, the truth of his Maior proposition is as good and no better, than his dealing in the allegations for the p^{ro}ofe of it was plaine and vp^{ri}ght.

*La discipline
eccles. des es-
glises refor-
mes du roy-
aume de
France, art.
2 & 3.

37. Section. Pag. 74, 75, 76.



Those things which I haue afore alledged, containing particular decisions of lawe, contrarie to his absurd and vncharitable assertion against penitent sinners; I trust may satisfie our autho^r: seeing for feare of a rule not generall, and with more imitations against it, than with it, he is content to let go his former hold. For he saith, though Manie things are not to be doone of vs, which being once doone must stand; yet the Massing priests might neuerthelesse and ought to haue bene seclued From the ministerie at the entrie of hir Maiesties reigne. So that it seemeth he alloweth of their tol-
eration

K. f.

Accusation
of hir Ma-
iestie and
the state, for
want of dis-
cretion.

* c. sollicitudi-
nem Ext. de
appellat. &
ibi. gl. ver.
sanquon ad-
uersa remissi-
ue.

Railing a-
gainst or-
ders of the
church.

* 2. Kings. ca.
23. ver. 8, 9.

Falsificatio.

leration now to remaine in their rooms; though by the
waie he accuse both hir Maiestie and the whole state then,
as not performing their duties herein, and of vnadvised
translating of the canon lawes vnto vs. And here againe
he sheweth his great skill in Law and Logike, when he
would both haue had the canon law then wholie abroga-
ted: and yet by that law, he would haue had such as had
sometimes bene Massing priests, and conuerted to the
gospell, debarred from the ministerie. The * lawe saith,
He that alledgeth contraries, is not to be heard. There-
fore to helpe by the matter fullie on his side, he surmiseth
by waie of admittance, that They are idolators still, or
that they doo keepe backe from the people the word of
God: and therefore are to be remooued. And it is a mar-
uell, that his skill in law was not such as to haue alledged
for profe hereof full wisclie, *Semel malus semper praesumitur
malus*. But who art thou that thus iudgeth another mans
seruant, who either standeth or falleth to his owne lord?
And who, if either Their insufficiencie, negligence, con-
tempt, or idolatrous hearts may be duellie found out, where-
with he chargeth them, are not to be tollerated any more
in respect of their conformitie to weare cap and surplesse,
by law prescribed, which (I doubt not) but vnder their per-
sons be here ment to make absolutelie odious: than his
clients are to be bozne with, who in contempt of lawe do
swiing by and do wne at communion and else-where, one-
lie in their side cloakes, more like ruffians and drouers,
than sage and staied ministers, in a settled church. And where
he goeth about to heale that which belike he feared would
be objected, concerning the * priests of the high places,
whome Iosias brought out of all the cities of Iuda, and suf-
fered them to eate of the unleauened bread among their
brethren, he is but afraid herein of his owne shadow: for
he seeth there are other more pregnant places a great deale
to this purpose. But here he hath also falsified the text, in
making these Priests of the high places, the Priests of Baal,
(whose

(whose pretexts are indeed spoken of in the first verse) and by calling the Vnleauened bread by the name of Tithes and offerings. And here also, by waite of recapitulation of that which had beene spoken foure or fīue pages before, he flingeth backe againe, to inforce the removing of a minister for insufficiencie or negligence, as well as men in diuers other functions are for the like to be removed: which his reason is answered afore. And at the closing by hereof (as Orators doe, when at the first and in the end, they set their most forceable persuasions, to leaue the deeper impression) he allegeth three lawes belike as the verie cutthrottes of al^r. A permission was *giuen vnto Decurions by Theodosius the emperour, vpon relinquishment of their goods to become clarkes. Which the emperours following thought good to abrogate, by calling backe publike officers and ministers, which either in regard of the troubles of such functions, of superstition and admiration of that kind of life, or for the enioyeng of the immunities of clarkes, would leaue their former roomes destitute, and procure themselves to be ordeined clarkes, in some great church amongst other. But I see not what this may proue, saving that princes heretofore haue made lawes, to bring backe ecclesiasticall persons from the seruice of the church, which vnduelie and with forsaking of their former vocation they vndertooke. As for bond men, which by their maisters consent first taking vpon them to be Monkes (all which were in those *daies laie men) did relinquish their solitarie life afterwards, and therefore were brought backe to their old slaueerie, least they should reape benefit, and their maisters by such collusion be damnified: I cannot see to what end it is brought, but to make by a number, and to range in a ranke with the rest. His last allegation here is his owne collection, and not the law it selfe in either of the places quoted, which proue onelie that infamie, which is *Infamia iuris*, is sufficient cause of removing a man from an office of credit, and saie nothing of hindering him to aspire to

* L. 12. si quis
curialis C. de
Epi. & Cleric.

* c. a subdiacono
no 93. dist.

such a place as is here alledged : although the law be elsewhere as pregnant for the one as for the other . And though this be true, and to be applied also to ministers, yet is it not by force of these lawes onelie, but by vertue of other Canons, especiallie prouided for that end and purpose.

38. Section. Pag. 76, 77.



Ere he rangeth still further and further from his issue, which is, that such a learning as enableth a man to preach, and none other is, allowed of by lawe in a minister : and would now for sooth proue our ministers to be no ministers at all, for that they are not made according to the forme and maner which the law prescribeth . That they are not so made, he leaueth as yet unproued, and taketh it of the readers liberalitie as granted vnto him, which neuer ment to ease him of that paines. The reason of the consecution, if they be not in that maner and forme made and ordered as is appointed, that then They are no ministers in deed and truth, but onelie in shew and appeerance ; hereof he thinketh may be established, bicause the statute saith: Those which be or shall be made deacons or ministers after the forme and order prescribed, shall be by authoritie thereof declared and enacted to bee, and shall bee priests, ministers and deacons, and rightlie made and ordered, &c. And if hereof may be gathered, that therefore none shall be accompted deacons, priests, or ministers, but which be ordered in that precise and exact forme: then will it follow that no Deacons and Priests ordered in the times of king Henrie, and Quene Marie, are to be so accompted with vs for Priests, whereof the contrarie afore is shewed . Then also none made and ordered by a Bishop consecrated in those times, as the most ministers were at hir Maiesties first entrance, shall be true Deacons or Ministers, though in other points the forme

forme of the booke be obserued wholie, bicause by that reckoning, the Bishops that ordered them, being also consecrate after another forme, were no Bishops, and so those which haue bene consecrated of them since, no Bishops likewise, being not consecrate by verie Bishops: and consequently neither the Priests ordered after the popish manner, nor any of our Deacons and Ministers now are by this mans collection True deacons or ministers, but onelie in shew and apperance. *En quo discordia ciues perduxit miseros.* Maie then are all the ministers of other reformed churches, being not ordered according to this forme, to be accounted as no true ministers; but especiallie some of our owne countrie men (who yet thinke themselves more lawfullie called than any of ours besides, bicause they were ordered beyond sea after another maner) shall be in the same Predicament with others; seeing our author hath taught vs to reason out of this statute, both affirmatiuelie and negatiuelie. But I haue somewhat aforesheved, how far an argument *A contrario sensu* doth hold, and the common lawyers can tell him, that this statute being in the affirmatiue onelie, may well establisth those as true ministers which be ordered according to that forme, but cannot exclude all others, though they be not so ordered. But his dealing is woorth the marking, whose profe being generall against all, not ordered in maner and forme as is required, yet he concludeth onelie against Vnlearned ministers, that by law they are no ministers at all; when as the want of obseruation of that forme, will disable by his construction euen the best learned, as fullie as the vnlearned.

Malice palpable.

39. Section. Pag. 77, 78, 79, 80.



That the not obseruance of the maner and forme in any point (for so must his indefinite speech hereof needs be construed) about ordering of Deacons and Ministers, doth infect the whole action, and maketh it of

Il. ij.

no

no validitie in law; he here laboureth to inferre vpon diuerse places out of the law Ciuill, Canon, and Common, which to diuerse purposes doe seeme necessarilie to require a set and an exact forme for accomplishment of them. In his first allegation to this purpose, I note his want of iudgement. For that * law compelleth an heire or executor to perfect and finish such works as the testator hath willed to be made, yea though the fourth part of the whole goods otherwise by *Lex Falcidia* due vnto him, be therevpon also spent, bicause it is a legacie that cannot be diuided: and therefore it is not sufficient for the heire to laie onelie so much cost vpon it, as that he may reteine his fourth part due vnto him by law: but he must make vp the worke perfectlie. So that the reason of this decision is not anie forme required thereto, as he would gather, but onelie the nature of the legacie, which otherwise were to no vse, if it might receiue such an appoitionment. The * chapter it selfe out of which Panormitane gathered that which here in the second place is alledged, dooth sufficientlie shew, that euen those formes and solemnities, which be of the substance of the act, may be countermanded by custome. For though neither the prior and couent of a cathedrall church without the Bishop, nor the Bishop without the chapter, could then sue or be sued, as partlie by this canon, and partlie by the lawes alledged by the * glosse here appeareth: yet we see that the vniforme custome of this land, hath since that time otherwise preuailed against these lawes and canons. And I cannot coniecture whie our author thought good to exp lane this, being of it selfe verie manifest by an example of euangelicall denuntiation: except he would haue vs to gather hereof, euen contrarie to the practise of all reformed churches, that in no case excommunication is to be inflicted, but vpon the proceeding by these degrees mentioned. But then would it be verie hard, as it is still by this meanes, to haue any vse of excommunication at all, seeing hee requireth the priuate monition giuen onelie in the

* *L. si is qui S.*
quedam ff. ad
h. Falcidiam.

* *c. causam*
Ext. de iudi-
cij.

* *Glin ver.*
assensu ibid.

the hearing of the two parties themselves to be first Proved, which must necessarily be by witnesses. And by the waie I cannot see, if this place of the 18. of Matthew be a perfect platforme of excommunication, as some doe asseirme, how excommunication can be otherwise laid vpon any man, but when the originall did begin vpon a private offense, betwixt some particular parties, and where all the circumstances there touched be observed.

The * canon which (without all quotation) he alledgeth to the like end as aforesaid, doth not ground the invaliditie of the alienation of those church goods, onelie vpon want of a solemne and diligent discussing of the matter before: but first and principallie, because the tithes were allotted vnto the Archdeacon of Duresme, from a church being void, and wanting a defendour. And againe, because there was no evident necessitie or profit of that alienation. And by his * alledging of two Authentikes inserted into the bodie of the Code of Iustinian, by the name of two lawes, he argueth either his great haile, or his small skill & practise in law. The two decisions, which likewise he alledgeth without any direction of proofe, as being according to the common law of this land, I thinke he will not compare and saie that they containe no more exact a forme, than is the forme prescribed in making of ministers. For then like as he telleth vs, the statute speaking of pledges, cannot be satisfied with one pledge alone; so the booke mentioning alwaies deacons and priests in the plurall number to be ordered, shall by this comparison exclude the Bishop from making but one minister at once, though there be no more places but one in his diocesse void at that time. The other places of this section, which he partlie quoteth out of Panormitane, and partlie as being wearie, leaneeth without quotation, it were but lost labour to search into, seeing they haue their truth, if they haue bene trulie understood: and one answer may serue both to them, and all other of like nature. For if he will intend any to be no

B.ij.

ministers

* c. i. §. quia
verò de rebus
ecclesie alien.
in. 6.

* Auth. hoc
ius, & Auth.
preserea Cod.
de sacros. eccl.

ministers in this church, in this respect, that they were not ordered according unto that forme, which he imagineth of necessitie is so required, that without it the whole action is made void: then must he proue, such necessarie forme to haue bene omitted at their making: which else by the instrument and testimonials therof made, will be otherwise presumed: and also, that it is not onlie an accidentall forme or solemnitie, but of that substance and weight in that action, that the neglecting thereof shall ouerturne that which is done, even as though it neuer had bene. As touching the first, where it appeareth a fact to be done (as that a minister hath bene ordered, is proued by the Autentike scale of the Bishop) that there the law will also intend & presume till the contrarie can be shewed, all things thereabouts to haue bene lawfullie, orderlie, and solemnelie done, is by law verie eident. Generallie^a is to

^a L. 30. *sciendum ff. de verb. oblig.*

^b L. 5. *ff. de proba.*

^c *Instit. de fin. de iust. S. finali.*

^d L. 19. *S. sed et si ff. de probas. l. 134. Tit. 12. S. penult. ff. de verb. obligat. Instit. de inutil. stipulat. S. si scriptum. l. 1. C. de contrahenda stipulat. l. 1. § 1. merito. ff. pro fodo.*

^e *Arg. l. 6. qui in. S. 1. ff. de acquir. vel miss. hered.*

be vnderstood, that if a man write that he hath become suretie for one, all things thereto incident are intended^b to haue bene solemnelie doone. Likewise, ^b Paule did answer for lawe, that if any man denie an emancipation or infranchising from the fathers power, to haue bene rightlie made, there he must vndertake to proue it, because the presumption of law is to the contrarie. Also In the^c bonds and stipulations of sureties, we are to vnderstand, that it is generallie to be holden, that whatsoeuer is set downe in writing as doon, that is intended accordingly to haue been doone. And therevpon is gathered againe as I haue alledged before in the first place, and as may be gathered out of verie many other^d lawes too long to be particularlie rehearsed. Moreouer, ^e the verie continuance of time, and possession of their places by their ordering, doth breed a presumption in law, that those things which were thereto necessarilie required, were therein vsed. And as to the second point, in case it should be proued that diuers points of maner & forme, by the booke of ordzing prescribed, haue bene in ordzing of some omitted, yet the want therof can

no waie impeach the truth of their ministerie, or lawfulness of their calling : except they were at the least proued to be of the necessarie substance and forme of that action . And in the meane time, what shall we thinke of this man, who vnder this pretense of skirmishing onelie with vnlearned ministers, doth leaue(as much as in him lieth) a scruple in the minds of all our ministers, least peradventure vpon occasion of some part of the forme and maner prescribed, being by the Bishop omitted, they might hereby by law be adiudged vniust possessors of their places, and consequentlie, with an euill conscience to haue receiued the reuenues of their benefices : But The ^a not vsing of any forme or solemnitie being not of the substance of the matter dooth not make void the action . Now, The ^b forme which is of substance, is nothing else but the verie perfect state of anie matter or disposition . And If ^c any solemnitie be required in the maner of doing any act, though the same were not vsed therein, yet the act may be made good and ratified, so the said forme were not of substance . Againe, The ^d leauing out of an accidentall or small solemnitie, maketh not the action wherein it was required to be called backe againe . And beside the place here quoted, the said Baldus is of the same iudgement *In l. fin. C. de iure deliberandi* : and not onelie he, but (as I haue read) all other doctors writing, *In l. 1. §. 1. C. d. sauing onelie Fulgosius*, which in that place, and in the preface of the Code, is of another conceit, and is therfore iustlie reprehended by Iason *Conf. 26. vol. 1.* In which respect Baldus saith, that A ^e slender or light solemnitie is not to be construed as a condition set downe by law . So that vpon failing thereof, the disposition of law shall not thereby faile and be auoided . And it is then said to be but an accidentall and light solemnitie, ^f When it bringeth either small or no preiudice at all : or is such as was not established vpon any vrgent reason or vtilitie ; or that Which if ^h it be omitted, cannot change and alter the substance of the fact . *State the law teacheth vs, that if*

^a *L. 1. §. fin. ff. de ventre in spi. & ibid. Bart. & in l. 1. de edicto edilisio. & in l. Diuus ff. de restitutione in integrum.*
^b *Bald. in l. penult. C. de cond. insert. & l. 6. uniuersis C. de precibus imperat. offerend.*
^c *Bald. in rubr. C. de success. adi.*
^e *Bald. & Alex. in l. 1. in fine ff. de liberis & posthumis. & Bald. in Ant. mari C. quando mulier int. off.*
^f *Bald. & Ang. in l. fin. §. si vero C. de iure de libe.*
^g *Bald. in l. hac consulis. fin. C. de testamentis.*
^h *Bart. in l. 1. §. plures. ff. de exercitoria, & Iason Conf. 26. vol. 1.*

*i. c. Pisanis & ibi Iohannes Andr. & Abl. Ext. de rescriptis. Card. in Clem. l. 30. q. de decimis. Innoc. in c. cū dilect. Ext. de rescriptis. Alex. in l. cum lex. ff. de fidei-
iuss. Bald. Imola & Alex. in l. i. ff. de liberis & posth. Bald. in l. non pos-
sunt ff. de le-
gibus, & in l. si quis mihi
S. coram ff. de
acquir. hered.
Alex. in l. i. ff. de liberis
& posth. & cons. 23. & 35. in 4. pars.*

a certeine forme be set downe by man (as by the prince in a commission) then the action that is done without that solemnitie, shall of it selfe fall to the ground: but it is otherwise, when the forme is appointed out by law, for then such an act (without that forme) may well enough be available: yet alwaies with this limitation, so that the law or statute commanding or prescribing an act to be done in such or such manner and forme, doe^k proceed no further: as in expresse words to adnull that which shall be done otherwise: or else doe^l not prohibit such an act to be done, otherwise than in the said certeine manner and forme: for if it doe prohibit, though mention be not made of annihilating, yet by verie force of law, the act being done without such a necessarie forme as the prohibition importeth, dooth become void.

40. Section. Pag. 80, 81, 82.



Because our author foresaw what might be truelie answered to his thicke mist of allegations, for making void of all ordinations of deacons and ministers, wherein anie point of the prescribed forme or manner was omitted: which may appeare by the conclusion of this section, in which he gathereth certeine points To be essentiall and not accidentall: he therefore thought good here, for the better winding of all, whome he imagineth vnlearned ministers, into the danger of vsurpation, to note certeine particular solemnities, concerning the examination, time, and presenting of clearkes to be ordeined: hoping be like, that vpon his pape credit we would accept them, without proufe to be essentiall points of this action. Wherevpon he promisseth to himselfe a triumph of his owne decreeing, as not doubting but that all or some of these haue bene omitted, at the ordinations of vnlearned ministers. But what spirit shall we saie this man to be lead by, which vpon his owne onclis vnchar-

uncharitable surmise, of such omissions (euen contrarie to that which the law presumeth) dare so confidentlie and publickly call in question, not onelie the lawfulnessse of calling, and staie of living, of all vnlearned ministers (against whome principallie he seemeth to bend his forces) but of all other, euen the best and most learned in the land: Seeing it is as likelie, that some, or all of these solemnities were omitted and let slip at their ordinations, as at any others. But thanked be God, there is no cause for them to dismay themselves: all this wind is but a painted blasse, like that which bloweth at the end of a map, and will shake neither corne nor chaffe. The *glosse alledged, that He that is not examined before his ordering, is to be depose, cannot well and simplie be vnderstood of the minister ordeined.

first, bicause it is not gathered of the text whereon he glosseth, nor vpon that * which he bringeth for prooff of it. For that text onelie punisheth the Bishop that ordeineth without; these men (not mentioning any examination of inferior ministers) which the penaltie else-where by canons provided, which is, * to be bereaued of conferring of orders and benefices. And what reason in deed was there to depose the minister, bicause the Bishop did not examine him: Againe by this interpretation the glosse should be contrarie to it selfe (as in another place to another purpose is shewed) where * is said, Heere you haue to marke, that the testimonie of the people is equiualent to examination, wherevpon it is sufficient that a cleрке to be ordeined haue a good fame of his side. And this also * appeareth, bicause those which are knowne, are not to be examined, but onlie strangers. And againe the same glosse vpon the selfe-same chapter * speaking of Examination, and that otherwise the Bishop without aduise of other clearkes, and the good testimonie of the people may not presume to ordeine: saith; *Alia, &c.*: Otherwise, that is to saie, if they be not examined by those who are about the Bishop, or tried by the testimonie of the people. So that we see, it is so farre off from depose

* Gl. in ver.
inuestigant, c.
quan. dist. 24.

* c. nihil est §.
Epi. Ex. de elec.
lect. & electi.

* c. cū in cum-
fectis. §. fin. d.

* Gl. unica in
c. nullus ordi-
natur dist. 24.

* c. de Petro,
dist. 47. c.
valde, di. 94.
& c. mandata
Ex. de pre-
sumptionib.

* Gl. in c. quā-
do ver. alias
dist. 24.

* Gl. d. in ver.
inustigent.

deposing a minister, bicause at his ordering he was not examined, that it is not necessarie alwaies, that he be examined, and the verie words of the glosse alledged, are doubtfull and indifferent to be applied, as well to the deposition of the Bishop, which doth not cause the clearks to be examined, as of any other; so that if there were law to warrant it, I should thinke it ment of the Bishops onelie deposing. These * three (saith that glosse) lawfull age, sufficient learning, and honest conuersation are especiallie to be required, and if he be not examined in these three, *Deponendus est.* Which our autho^r meaning to put out of all doubt, to be meant of the partie so ordeined, hath either foisted in this whole sentence, If any be made an elder or deacon, without examination, let him be cast out from the cleargie; or else I must saie, he hath a larger booke to serue his turne than ordinarie: yea though it were so to be understood, whereof I haue proued the contrarie, yet it maketh not such *Ipso facto* to be intrudors, and no ministers at all: but leaueth them to be deposed by sentence of their Ordinarie, which with no reason can depose them, onelie bicause he himselve neglected to haue them examined. That which he bringeth here out of the canon law, concerning the time of ordinations, if it be alledged, as being in force with vs; I answer, that he must first tell vs, which of the canons varieng amongst themselves hereabouts, we must retein for law amongst vs. Some of the oldest appoint ^a onlie the Lords daie, other some ^b appoint for this purpose the foure solempne feasts which we call imberdaies, and the saturday before the passion sunday onelie; his text ^c mentioneth onelie the foure solempne feasts, and the ^d next chapter following addeth the saturday next before Easter daie, and the saturday before passion sunday. Again, our generall custome vniuerselie obserued, which cannot by reason of the multitude so ordeined, without great offense and confusion be now (as a corruption) with all acts therevpon depending, disannulled: doth by lawe sufficient

^a c. quod à patribus, & c. quod die. 75. dist.

^b c. vlt. ibid.

^c Sane super eo, Ext. de temp. ordinat.

^d c. De eo autem ibidem.

^e Sane extra. de tempori. ordinat.

sufficientlie establish, all ministers ordeined at other times, than the canons doe prefix. Lastlie and chéefelie, the act of parlement, which declareth all such to be rightlie made and ordered, that be made according to the booke for that purpose prouided, doth stronglie confute this assertion. For the booke saith; The Bishop may vpon a fundae or holiedaie admit, &c: which being a statute neither prohibitiue nor annullatiue, giuing libertie to the Bishop to make deacons and ministers on fundaes or holiedaies, as it doth sufficientlie repeale the strictnesse of the canons herein, so doth it by no construction make void the ordination of such as be ordeined on other daies. But if he will inforce, that as the time of ordinations with them, was an essentiall fornie and solemnitie; so the fundae and holiedaie must be with vs; I saie the difference betwixt them is great. For the * canon law saith; It shall not be lawfull for any Bishop to ordeine at anie other time: but the booke onelie saith, The Bishop may vpon a fundae or holiedaie admit. And the canon it selfe doth not so make the time to be of the substance of that action, that those who are ordeined at other times, shall thereby be accompted as not ordeined. For where the place by our author alledged, vbleth the word of Deposing, there the ^a glosse expoundeth it Deposed from execution, and to be suspended onelie. Which agreeth ^b to the text afterward, that suspendeth those which be ordeined at vndue times, till they receiue fauour for their restitution. Again, the ^c canon saith; It is not to be doubted, but such as haue taken orders, at other times than are appointed, haue receiued the character (that is, are indeed priestes :) and after inflicting vpon them due penance for their transgression herein, you may tollerate them to minister, according to the orders that they haue taken. Now he commeth to another quidditie, and as he would haue vs beleue a substantiall solemnitie, which is the presentation of ministers to the Bishop by the Archdeacon, without naming of his deputie, as is done in deacons or

* c. de eo con-
tem. d.

^a Glin ver.
deponerentur
c. sane d.
^b c. cum qui-
dam. d.
^c c. penult. d.

dina

dinations. Which point, if it were of substance, might no doubt in manie places reach as well vnto the prejudice of good and learned ministers, as of vnlearned. But what reason were there, that the minister should be punished for the archdeacons neglect of his dutie? Or of whome should he inquire, if he knew him not, whether he were the verie archdeacon, or but his deputie? Or whie should we thinke that the deputie may not be as sufficient to present them to the Bishop, as the archdeacon himselfe? Or whie are we to imagine, seeing the booke presumeth for the most part, both the order of deacon to some, and of priesthood to other some, to be giuen in one daie, that the archdeacon being present, would depute one to present deacons, and he himselfe in person present the priests? And what if the cathedral church haue no archdeacon established there, or the archdeaconrie be void, or he himselfe bed-rid; shall the Bishop (diuerse places of ministration being void in the diocese) staie the ordering of ministers for those void romes, till there be a new archdeacon? And what if the Bishop doe so sufficientlie know them, or doe examine them himselfe, that the archdeacon doth not examine them, what need is there then for him to present them? Or whie is this more of substance than the Bishops Sitting in a chaire, when the oath of supremacie is ministred, which the Booke mentioneth; or to order at the least three at a time: seeing the booke saith; The archdeacon shall present vnto the Bishop all them that shall receiue the order of priesthood that daie, which cannot be spoken of fewer than of three? Or if none but the archdeacon might present ministers, without ouerthrowe of the whole action, why did not the booke saie; The archdeacon himselfe, and none other shall present. And seeing it is said otherwise, the act in law shall be good enough, as hath bene shewed before. And the rule of law is;

*That which is done by another, seemeth in the eie of the law to be done by himselfe. But he saith, the archdeacons industrie is herein especiallie chosen: and therefore this dutie

*Reg. qui per
alium, & ibi
Dynus.

dutie cannot be committed ouer againe to any other. For
 profe of this consequence, he alledgeth two places, one of
 them thise, and the other twise ouer, for feare he should
 seeme to lacke law in this point. That, out of the text (which
 yet gaue him light to flourish and braue a little with the
 Bishop of London, and his Archdeacon, about the Treas-
 ureship of Powles) speaketh not a word of inhibiting a de-
 legate, to substitute another for him: but decideth, that if
 the prince commit authoritie to a man to furnish certeine
 benefices with fit men, and die before the trust be accom-
 plished, yet the commission doth not determine: but if it be
 to place some certeine person therein, and before he be pla-
 ced, the prince dieth; then the commission hereby doth
 cease. The other canon out of the Decretals maketh direct-
 lie against him, sauing in certeine cases there expressed:
 Bicause * (saith that canon) the apostolike See intendeth
 to prouide for matters, and not for persons to whom they
 are committed; if the iudge either of meere office by vs
 assigned vnto him, or by the parties consent agreed vpon,
 doo depute another in his steed (considering the princes
 delegate may by lawe doo so) this deputation shall be of
 force. The like is to be said of a Bishop, who hath a com-
 mission to execute together wirth the one of his colleagues, for
 he may substitute another, and then the other two colle-
 gues cannot proceed without him, whom the Bishop did
 subdelegate. This rule faileth * when a man is inioined to
 execute a matter personallie, except the parties doe con-
 sent. Also * when an inquisition or prouision for apt prelates
 or ministers is committed to be done, bicause in such, the
 industrie and credit of the partie is intended, especiallie
 to haue bene regarded. Lastlie it faileth * when not a su-
 risdiction, but a bare ministerie and execution of some mat-
 ter is recommended. None of which three limitations can
 anie waie be applied to the presentation of ministers by the
 archdeacon onelie. For if he had bene so straitlie tied, then
 should this word Personallie, or some equiualent haue
 bene

* c. si cui de
 preb. & dig-
 ni in 6.

* c. quoniam
 Ex. de officio
 delegati.

* c. d. §. is an-
 sem.

* c. d. §. d. ver.
 preterquam.

* c. d. §. ceterum.

* Pag. 64. &
65. vide gl. in
c. ad hęc ver.
examinentur
Ext. de officio
Archidiaconi
& c. Episco.
Ext. de pꛑeb.

* Gl. in c. quā-
do, ver. sacer-
dotes, dist. 24.

* Gl. in c. ad
hęc ver. ex-
aminentur,
Ext. de officio
Archid. & c.
et nostrum, d.
* c. quando
dist. 24.

bēne vsed. Neither is the prouision for apt ministers, or the blame for default thereof (as our * authoꝝ himselfe as- fore hath proued) incident to the archdeacon, but to the Bishop, and the lawe choſeth not the industrie of him to this effect: but the Bishop in all places choſeth his archdeacon, vpon whom this iurisdiction, in right of his office, is there vpon cast. And therefore this is not as a bare ministerie committed vnto him by any man, but cast vpon him by reason of his office, through the disposition of the law; yet not so necessarilie or especiallie as our authoꝝ bygeth, but that by law the presentation by the archdeacon may be omitted: That * is (saith the glosse) when the Bishop ordeineth without any presenting by the archdeacon.

And * another glosse saith; That of common right it is the archdeacons office, to examine and present clearks to be ordeined: yet this is not generall, if either there bee no archdeacon, as in manie churches, or if the Bishop thinke good to * chooſe especiallie other priests for this purpose. And if it were of substance, yet in the answer to the former section it is sufficientlie shewed, that the leauing of it out, cannot make void the ordination. So that his first conclusion, that these three, The examination, the time for ordering, and the presenting by the archdeacon, and also The calling, whereof he hath before not spoken one word, are points Essentiall, and causes formall, dooth fall flat to the ground; and much more his other conclusion depending thereof: that none being no preachers (whom he therefore called Tong-tied) are to be accompted ministers, because they are Not made according to the order & forme of the statute. Whereby he would beate not vnlearned ministers alone; but withall, like one blindfolded with malice, he lasheth out at all ministers, in whose ordination some such slender circumstance hath not bēne perhaps vsed.

41. Section. Pag. 83, 84.



Dhis question heere, seeing All solemnities in the making of ministers (as he thinketh) are by the lawmakers appointment essentiall or substantiall, in case some not of the least moment onlie and which might otherwise wel inough haue beene reputed accidentall, bee omitted ; but other of greater weight which he reckoneth : whether then men so ordeined By our statute lawe be ministers at all or no : I doe answer, that except he can both procure all such (whose omission he would inforce to overthrowe the whole action) to be essentiall; and also those other circumstances to concur, which in the end of the next section sauing one afore, I haue shewed to be required to the aduancing of an act for want of forme, we must still account them for lawfull ministers in the church. For although the Bishop, who omitteth any of those which be of moment, may be punished: yet I for my part cannot account any point of the ordination to be the formall cause of the externall calling into the ministerie, besides the words, giuing the authoritie to execute that function, and the two necessarie solemnities of prayer, and the imposition of hands. I doe obserue in this section, that he or his printer to gratifie him, hath twice changed the forme of the letter from Romane vnto Italian, as though they were not the authors onelie words, but some allegation. Also, that among those things which he would necessarilie haue the Bishop to haue regard vnto, and not to omit at ordinations, he reckoneth this: that the minister be moued by the Holie-ghost, and be perswaded of the sufficiencie of scripture to saluation, and surmiseth (verie vncharitable) these to be wanting in Too too manie of our ministers, which no man, but the spirit of the man himselfe, which is within him, can iudge: so sone is he leapt into Gods owne
 I. f. throne;

hymone; and taketh vpon him, to set downe what lieth hid
in a mans owne conscience. Likewise is that of his ridic-
culous, where he blameth the Bishop for ordering him,
that is not example to his flocke, or will not teach, &c: con-
sidering it is not possible for the Bishop to prophesie, how
the minister will behaue himselfe in his function after-
ward. And the booke prescribeth not these as qualitties to
be attended before the ordination: but as solemne vowes
and promises before God and his congregation: the more
straitlie to tie the minister vnto the fulfilling of his dutie.
And so is this as foolish and wandring, where he saith, The
vnlearned ministers, the complaints to the Councell, & the
Bishops owne records, are glasses, wherein wee may see
these omissions of forme and maner at ordinations not to
be feigned. I doe thinke verie few complaints haue bene
made for not obseruing the forme of the booke, and fewer
circumstances omitted (I am sure) are recorded. Touching
his Maior proposition of his syllogisme, That the forme not
observed by him, which had no authoritie before that
booke of ordering was by law confirmed, except he meane
it, that they had no authoritie before to make them accord-
ing to that forme, is most apparentlie false, and to be con-
trolled by infinit lawes and canons, which endow them
with this authoritie, as incident vnto their dignitie, euen
from the apostles times downeward. Now the lawe is ve-
rie euident, that* If a forme be by law set downe to be done
by an Ordinarie, in that point wherein he had iurisdiction
afore, though the forme be not obserued, yet the act done
is of force, and shall stand. Therefore the vanitie of all that
hath to this purpose hitherto by him bene said, is hereby
detected. But admitting the conclusion were true, That
processe not made according to the order and forme of the
statute were void: how can he inferre hereof, that all not
being preachers (whome therefore he calleth Dumb and
idoll-ministers) are no ministers at all? Must we thinke
that such, as at their making ministers are able to preach,
haue

* Glos. singul.
& Card. in
Clem. 1. in
princ. de iure
patronatus.
& Phil. in c.
qua fronte
Ext. de appel.

have this priviledge peculiar onelie to them, that no part of the forme can possiblie be omitted at their ordination; and that other that be not able, are all so unhappie, that the Bishop possiblie cannot at their ordination hit vpon it? But what shall we saie then, if one able to preach, and another not able, be at one time and in one maner ordeined together: shall the one, shall both, or shall neither, for want onelie of some forme, be ministers Indeed, and by law, according to this mans supposition?

42. Section. Pag. 85.



I have shewed before what force these reasons of similitude or comparison are of, in all disputation; but especially in matter of law. His* first,

** l. 10. ff. de decuri.*

That the inserting of a mans name in the register of decurions, will not make him a decurion without a due

election, being set by him vnquoted, hath not so much as a colour or shew to proue anie thing else, but that euerie one is not straight (without the outward calling of the church) to be reputed a minister, though he by some meanes haue gotten letters of orders. The* reason of the other law

** l. 30. ff. quādo dies, legat. cedat.*

by him alledged, whie the legacie giuen to an infant the day of his marriage, shall not be due before she be married and haue attained twelue yeares of age, is: because before that time it is but a mocke marriage, and may be dissolved at such age, neither is reputed a iust and lawfull matrimonie before that time, according to that,

** Iustus nuptias inter se contrahunt ciues Romani, viri quidem puberes, femina autem viripotentibus.*

** Institutio de nuptiis in initio.*

If he will applie this to his purpose, then must he proue, that an ordination into the ministerie of any not able to preach, is by lawe as no ordination: the contrarie whereof I* haue afore shewed, euen out of that statute, which here he alledgeth: where it was also said, that the statute hath no one word, to make void admissions to orders,

** Sect. 30.*

in respect of any default there touched, as may appeare to those who will peruse it.

43. Section. Pag. 85, 86, 87, 88, 89.

^a Cicero li. 2.
de natura
deorum.



Because our author will make sure worke, he is now come to A principall reason by an action of guile and deceit, against the Bishop or the minister (I know not whether) which is so sure an hold, that ^a one calleth it, *Euerriculum maliciarum omnium*, A verie drag-net to catch in all ill dealings whatsoever. He reasoneth thus (as I gather it;) No solemne contract or stipulation, in which there is no good faith and plaine dealing vsed, but guile, dooth by law bind, but is meerelie void: But there is a solemne contract or stipulation vsed betwixt the Bishop and the partie to be made a minister, which is vnlearned, wherein good faith is wanting, and guile is vsed: Therefore the said contract or stipulation dooth not bind, but is meerelie void: and consequentlie such are intrudors, and ought not to haue the name or title of ministers. ~~Here~~ I must put the reader in mind againe, that the author still taketh as granted, and as by his owne right, that which is principallie in controuersie, that is, euerie one to be an Idol-minister, and vtterlie Vnlearned, that cannot preach. In the discourse for prooue of his ~~Mat~~or, there is great boast and small roast; diuerse vnnedfull examples and places are brought, whereof some twisse quoted ouer (for falling) are vled verie farre off from the purpose: which argueth his skill to be small, where his choise for prooue of a truth is so slender. For none of his three first allegations do so much as once mention good faith wanting, or guile used: although truth it is, the faults there spoken of, arising if not of wilfulnesse, yet at the least of ignorance of the law, which is to excuse no man, neither can be intended and presumed, doe employe good faith to be wanting, in such breaches

tion.

ches of law. The place quoted, *L. venditione C. de usuris* com-
 meth in as a mule in a shew, to make vp a number, seeing
 no such law is yet framed, that I can find. In his Oration I
 do also obserue grosse ignorance in lawe shewed two
 waies. First, where he confoundeth *Prinacionem bona fidei*
cum dolo, making it necessarilie guile, wheresoeuer good
 faith is not, by a fallacie a *Consequenti*: and secondlie where
 he maketh the want of good faith or guile, to worke the
 same effect by law in contracts which be called *Bona fidei*, as
 in those stipulations which be *stricti iudicij*. Touching the
 first, though^a sometime in lawe by Good faith be signified
 whatsoeuer is free from guile, fraud, and craft, yet^b some-
 time is it also vsed for that which the Græcians call *ἐπιεικής*
ειρηνία, and the Latins *Bonum & æquum*, the common lawyers
 equitie, which is opposite to rigor. Concerning the second:
 that contract which the law calleth *Bona fidei*, if guile and
 deceit did occasion it, is by the verie operation of the law
 no contract, and void altogether. But that which is called
stricti iudicij, such as stipulations are, is not by^d lawe void,
 but according to the pretorall lawe to be auoided by action
 or exception of guile: which besides the lawe it selfe Tullie
 in^e diuers places witnesseth, that at the first such guile for
 along time passed without any controullement: ^f namelie,
 where hauing said that in contracts *Bona fidei*, euen without
 any set lawe, guile was punished: but (saith he) in other
 iudgements or actions guile was altogether unpunished,
 till the lawyer Aquilius^g had set out certeine obseruations,
 which the pretors in framing of processes and actions a-
 gainst such guilefull persons, should follow. As for his Mi-
 nor proposition, it is in two respects untrue, and to be de-
 nied. First there is no such solemne contract or stipulation
 concluded betwixt the Bishop and the partie to be ordered:
 for those demands and answers prescribed are not for any
 such purpose, as to bind the minister vnto the Bishop vpon
 any paine to performe that, which he there promisseth: but
 is a solemne promise before God and his congregation, of

^a *L. si cum
 fundum ff. de
 contra. empt.
 l. bona fidei ff.
 de verb. sig-
 nificat l. res
 bona ff. de co-
 trah. empt. &
 l. ubi ff. de re-
 bus dubijs.*
^b *L. bona fidei
 ff. de positi. l.
 quero. ff. loca-
 ti. l. lex male-
 ficio. ff. de act.
 & obligat. l. 1.
 S. hanc acti-
 onem ff. de po-
 siti. & l. si
 mandauero.
 S. Iulianus.
 ff. mandati.
^c *L. & elega-
 ter. ff. de dolo.
 l. in cause. ff.
 de minoribus.
^d *L. dolo C. de
 inutil. stipula.
^e *Cic. lib. 3. de
 natura deor.
 & 1. offic.
^f *Cic. li. 3. offi.
 S. l. vii. S. si
 & stipulator
 ff. de eo per
 quem factum
 eris. & l. do-
 num ff. de
 contra. empt.*****

A. itj.

a set-

a settled and aduised purpose, that he hath to perfoyme his dutie in the ministerie, according to that his publike testification and vow. Which plainelie may appere, by the purport immediatlie following, directed vnto that end wherelie, that it would please G D D to strengthen him in that good purpose wherunto he hath entred.

If it were any other wise, I praie you what action for the prosecution of any priuate interest, dooth lie for the Bishop against such a minister as keepeth not such his promises, whereby the stipulation surmised should be committed or forfeited? Furthermore, the other part of his sinne, which surmiseth guile and deceit to be both on the part and behalfe of The minister, as knowing him selfe void of those gifts which ought to be in him, whereby he cannot beleeue him selfe to be trulie called or moued by the Holie ghost: and also on the part of The Bishop, as knowing the partie to be a man altogether vnfit for the ministerie is likewise to be denied. And if (as he saith) guile and deceit be on both parts, then dooth he strue against himselfe, because then the action shall stand good, *quia dolus dolo compensatur*, one guile must be set against another, and neither on the one part, or the other shall the contract be ouerthrowne. But how is it possible for our author, or any man else (besides the parties themselues) so confidentlie to pronounce of other mens thoughts, & to ransacke by their consciences in this sort? Seeing the law saith; We are not to presume that they knowe any such defect, till it may be by vs otherwise plainelie proued. For this thought of theirs by him surmised, is a matter not consisting in lawe, but in fact, *Et presumitur ignorantia facti, ubi non probatur scientia*, A man is then intended to be ignorant of a fact, where it is not proued that he knoweth it. And where ignorance of a fact and not of law is alledged, there *Semper presumitur bona fides, si abesse non probetur*, Allwaies good faith and byright dealing is to be presumed, if the contrarie be not proued. And therefore this rash iudgement of his before the time, that

^a Dyn. in reg.
presumitur.

^a L. penult.
C. de prescrip.
longi tempo-
ris, & Dyn.
in reg. contra.

that all they whome he imagineth, and by his owne onelie
 balance trieth to be vnlearned, Are not truelie called,
 nor moued by the Holie-ghost, as it is vncharitable in
 termes of christianitie, so is it not warrantable by lawe.
 Praise if we should admit such a contract and stipulation to
 be concluded betwixt the Bishop and the minister, and
 that guile and deceit had therein such a stroke, that by no
 compensation it could be saued, but that the action were
 voidable: yet neuerthelesse, seeing he maketh it A stipula-
 tion and sure bond by words, by mere law the action and
 contract shall stand good, till it be reuersed, as he himselfe
 confesseth: till when, both in name and deed, they may in
 law be truelie called ministers. Yea, and further, if that
 whole contract and stipulation were *Ipso iure*, euen by com-
 mon right merelie void: yet hereof cannot be inferred
 (as he doth) that such Are intrudors, yea and not so much
 as in name, ministers. Seeing these demands and answers
 are but solemnities about that action, yet not the sole and
 onlie solemnities thereof: but least of all are they of the
 substantiall forme of ordination, which reacheth no further
 than to the authoritie of ministration giuen, when the Bi-
 shop hauing praied, doth with the ministers present, laie on
 their hands vpon him, that is ordeined. And therefore that
 which as a corollarie he buildeth herevpon, that seeing this
 contract fraudulentlie contriued, cannot bind either of the
 parties, Much lesse can it tie the common wealth or church
 of Christ, doth all vnder one receiue an answer. But that
 which he saith of wicked promises and othes against hone-
 stie, which bind no man to keepe them; doth argue, that
 he careth not what he saie, so he saie any thing. Is there
 any thing (I praise you) in those demands and answers
 (which he, as it seemeth, meaneth) by An oth against good
 manners, and by wicked promises, which is not most god-
 lie and fit to be vsed in such an action; yea and is such, as
 whereof diuers times in this booke he hath vrged a strict
 obseruation: Of like skill and discretion is that, which hee

His owne
 reason retoi-
 red against
 him.

L. iij,

bringeth

* Dynus in
reg. impossibi-
lium.

bzingeth out of the impossibilitie of performance of such conditions by the minister, to proue the contract betwixt the minister and him void : Bicause no man can be tied to impossibilities. For if those promises there to be made, are such impossible* things as the law meaneth : that is either by nature impossible, as to be in two places at once; or in fact, as to go from hence to Rome in a daie; or by lawe, being forbidden, as to sell mine hand vnto you for a percellie annuities : then hath he by his owne construction shut out of doores, not onlie vnlearned, but all other ministers, ordeined according to the order of this church of England, from being true ministers. But thanks be to God, his malice and his might in reasoning are not alike, and neither are those interrogatories and answers any contract, nor the chiefe part of that action, nor yet doe containe any such impossibilitie. But perhaps he ment, that they which were vtterlie vnlearned, could not possible fullie performe all which they there promised, & so thinking also that all impossibilitie was simple and absolute, as neuer dreaming of an impossibilitie *Ex hypothesi*, which (it may be) he neuer heard of or vnderstood : he did therefore belike imagine, that this reason also might go for good payment amongst the rest.

44. Section. Pag. 89, 90, 91.



Is former reason of guile and deceit, though it haue but a leaden point, yet it serueth him to as many vbles, as though it were *Delphicus gladius*. For he thereby first concludeth, The contract betwixt the Bishop and the minister to be void ; next, that Such ministers are intrudors ; then, that They deserue not the title and name of ministers ; and now, That the Bishop by law ought to cite such a minister *Ex officio*, and to proceed to his deposing. Cruelie we are greatlie behol-

den

den vnto him, as for his art herein, so in that he will leane
 this libertie to the Bishop to depose ministers vpon iust oc-
 casion, and that proceeding *Ex mero officio* against them.
 But how agreeth this with his popular election of mini-
 sters: For I hope if the people with the Bishop haue the
 placing, naie if he must but admit like a Vicedancelour
 whome they present vnto him; then must they haue autho-
 ritie also to displace their minister, for * *Cuius est instituere,*
eius est destituere, He that hath authoritie to place in a bene-
 fice, he hath also to displace. And as afore he was content
 to frame a part of submission for the Bishops, so here (in
 great kindness for sooth) he draiweth in their behalfe a pro-
 cesse against such a minister, arguing sufficientlie his
 deepe insight in law, being such a peece of worke, as for
 which all the aduocates in Spire, Paris, Bolonia, and Siuill,
 may wonder on him, and cast their caps at it, for euer ma-
 king such another infamous libell, rather than legall syllo-
 gisme. I will trusse vp this his solemne proces as short as
 I can, in this maner: You person A.B. deceiued me when
 I made you a minister, you made an open lie, you haue not
 kept promise, either by preaching, or exercising discipline
 in your parish, you sue your neighbours for trifles, and you
 haue not since repented you of these, with diuerse others;
 therefore I haue summoned you to depose you. And by the
 waie I will aduise you not to thinke me vnconstant, doing
 nothing herein, but what an emperor in a lesse matter did
 before me, and that which is for your owne benefit. In his
 proces, set out at large in his booke, I obserue that he laieth
 a great number of faults (as I take it) iointlie, whereof if
 any one be not proued, the defendant must be absolved.
 For otherwise he must tell vs, whether euerie of these
 which be objected, doe severallie deserue deposition by law,
 which I thinke no man will affirme. Also that which afore
 he called A solemne stipulation, betwixt the Bishop and
 the partie ordeined, he now termeth a Vow to G D D.
 Further he deduceth in his processe manie faults against
 the

* c. 1. & 2.

Ext. de Ca-
pellis Mona-
chorum c.
cum &
plantare §.
in ecclesijs.
Ext. de pri-
uilegijs.Incon-
stancie.

** Spec. de poss.
ii. §. 5. 1. ver.
item ad.*

the minister, as Dishonouring and prophaning GOD, quarelling, and such like: so * generallie and vncertainlie, that by law they are to be reiected, being not otherwise by the defendant to be answered. And he which afore had accussed Both Bishop and minister of guile and collusion betweene them, doth here seeme to cleare the Bishop, as being by Guile of the other partie circumvented. As for the ministers Not preaching being vnlicenced, and Not exercising of discipline, is but friuolouslie alledged; seeing no lawes doe warrant them, but such as the author hath framed in his owne forge. Here is also laid downe contrarie to rules of law, and objected against the minister, a negative improbable; as that he Neuer instructed any of his parish, that saluation was by Christ alone. Moreover, he maketh the Bishop to take vpon him to know the verie cogitations of the heart, as that Good faith was not ment by the minister, that he did contrarie to his owne conscience, that his praier was hypocriticall, and that he hath at no time since repented. So that I, for my part, am so farre from thinking such proceeding (as is here set downe) to be A noble and famous practise of a good and godlie Bishop: as that he were rather to be iudged a mad, passionat, and a furious man, which would in this sort, contrarie to all mans law, deuett a man of his liuing and function; and to be possessed with a Luciferian spirit, which so confidentlie would, contrarie to Gods law, condemne another mans inward cogitations, vnknowne to the angels in heauen, and to all the diuels in hell. But I beseech you how doth this solemne sentence of deposition and degradation agree with his purpose in this place, and in some sections afore: where he thought he had proued, that such as he here deposeth for sundrie Hypocrisies, publike falsifications, sacrileges, mockings of God, and delusions of lawes, were not so much as in name anie ministers at all? So that this so solemne proceeding here, doth nothing else but kill him out right, by cutting off his head, that was dead two daies

daies before. This part of a Bishops dutie, which he so extolleth, he further dooth inforce by waie of two comparisons to be incident vnto him to see it put in practise. For the first, when he or any other hath proued, euerie minister which is not qualified sufficientlie to preach, of necessitie to be an Hypocrite, a falsifier of his word, an impious and sacrilegious person, an open mocker and deluder both of the law of God, and of hir Maiesties lawes; then will that Bishop he meaneth, be as readie to depose such a one; as he was dutifull to see the obstinate contempt and breach of hir Maiesties lawes punished by imprisonment in him, whome this man calleth Honest, poore, faithfull watchman of the Lord, and painefull teacher: who neuerthelesse perhaps was as farre from desert of any of these commendations, as the most of them, at whome he so viperouslie hisseth; and as worthe for anie stufte or learning, to be sent againe to the plough handle, or weauers loome, as any of those, whome he with such gall and bitternesse dooth persecute. But is it credible that this man both here and elsewhere, would inueigh against the Impugners or deluders of hir Maiesties lawes, and call for their deposing, that is not content onelie to traduce his superiours, for executing their dutie in points incident to their charge: but also odiouslie and maliciouslie, thus to talont and to hale into hatred, reuerend Fathers, euen for the execution of hir Maiesties lawes, which are with a most strict charge by the whole realme in parlement, to them earnestlie recommended: Psea not onelie to condemne them in this respect, but to commend others for Honest men, painefull teachers, &c: which purposelic oppose themselues against lawes established: approaching herein to a kind of papalitie, whereby they would iudge all other men, but none must iudge them: *Quia quod nos volumus, sanctum est.* Paie in his second comparison, he plainelie and in flat termes iustificeth such impugners of law, as men onelie Making conscience not to offend God in any small thing, and debaseth

those,

Impugners
of lawe main-
teined.

Seditious
Doctrin.

those, that punish them for such breaches of lawe, when he saith, They are whipped and excommunicated for their conscience sake: and by waie of a most spitefull and Cynicall antithesis would dub all to be Foolitanes, and to make no conscience to offend God in all things, who haue not aspired to that sublimitie of perfection, as to stumble at a straw, and leape ouer a blocke; to straine at a gnat, and swallow by a camell. So that we see he alloweth their doings as proceeding of a good Conscience, and of feare To offend God in any small thing: he indirecylie accuseth hir Maiesties lawes with the whole realmes to be such in some parts, as not onelie we need not to obeie for conscience sake; but for reteining of a good Conscience, and feare of offending God, we ought not to obserue; and also chargeth those (who indeed for conscience sake, obeieing the magistrat in these mere indifferent things, leass by their contempt they doe also hereby offend God) to make no conscience to offend God in all things: and yet this man forsooth may not be accompted A lawles and rebellious Puritane, that thus breaketh thorough the lines, and cracketh the ioints of all our obedience to magistrates: whose power to command consisteth in nothing, if not in the vse of mere indifferent matters.

45. Section. Pag. 91, 92.



Cre, by a preoccupation, meaning to leaue all sure behind him, he maketh in the person of An old canonist, an obiection against deposing a man once ordeined, in respect of vnworthines: saving the Bishops sentence and iudgement whereby he once approued him, being not appealed from within ten daies (as the text, which he quoteth, distinguisheth) doth passe into termes of a matter decided and adiudged, and becom

becommeth an ouerruled case. He saith to this, that he will
 Answer law with law, but telleth vs not where we may find
 his law. In which answer he greatlie bewraileth his owne
 oversight: for if the lawe therewith he confronteth the ob-
 iection, be directlie contrarie to it, then hath he not resolved
 the doubt, but made it stronger, seeing the lawe admitteth
 no Antinomies: and it is against rules of reasoning, to
 answer one doubtfull matter or obiection by another. If it
 be but diuerse, then should he proue, that his second lawes
 decision is to be referred vnto, and to distinguish the for-
 mer, which he cannot in this answer. For where he should
 shew (the Bishops definitiue sentence, for the fitnesse of the
 minister, notwithstanding) that yet he may be looked into,
 and tried, not to haue bene so fit at that time, as he ought,
 and there vpon be deposed; which should be as an exception
 to the former law: In stead hereof he telleth vs, that For
 some cause afterward arising, inquisition may be made,
 whereby one being once allowed, may againe be allowed
 and disallowed. By the first part of which answer we
 may gather, that he answereth not *Ad idem*; for he should
 shew, not that for a new matter, inquisition may be
 had of him; but vpon his former sufficiencie or insuffi-
 ciencie, though more than ten daies be past after his
 ordering. But as it is no doubt, but for some faults
 found in the minister after his ordering, he may by lawe
 be euen degraded: so it is as notorious, if he were suf-
 ficient at his ordering, and by old age or the visitation of
 God, doe fall afterward to great imperfections and disabi-
 lities in wit, memorie, and vnderstanding; he may not a-
 gainst his will be remoued, but is to haue a Coadiutor as-
 signed vnto him, at his costs and charges. Which thing,
 euen the reformed churches of France, in their discipline
 and policie doe reteine, where they haue thus decreed, ** Mais * La discipli-*
ceulx ne seront, &c: But such shall not be deposed, which *ne de France,*
 through age, infirmitie, or other like impediment shall be- *art. 31.*
 come vnfit to execute their functions. In which case their
 former

* c. cum se-
cundis ampl.
ver. liceat.
Extra. de pro.
& dign.
Falsification
detected.

former estate shall be reserved, and they shall be recom-
mended to their owne churches to be maintained, and
another shalbe provided which shall execute their charge.
The second part of his answer conteineth one of our au-
thors riddles. For what end (I beseech you) should a man
Once allowed, be allowed againe, and yet disallowed?
Well, the truth is, that he was deceived, when he transla-
ted *Probatus*, tried, as though it had bene *Approbat*us, allow-
ed. For the glosse, which detecteth his craftie packing in
his answer, for which end also he was unwilling to quote
it at all, is in this passage thus: If the superiour should
write to the ordeinour, he might not object any thing, ex-
cept that were expresselie set downe in the letters, bicause
he ought to hold them fit for a benefice, whome he esteem-
ed fit for orders. *c. accepimus*, *Ext. de atat. & qual.* But the
successor may object: And so he that was once *Approba-*
*tus, iterum probatur & reprobat*ur: allowed, is againe tried
and disallowed, as the physician is, *L. ut gradatim S. reprobari.*
ff. de muneribus & honoribus, &c. And a little after saith the
glosse, But all this is but offavour, bicause we ought not to
inquire often of one mans fact. *L. licet in fine ff. nauta, campe-*
nes. But are we not to presume for the sufficiencie of him
that is ordeined? An argument that we are, is in *C. post cessi-*
onem Ext. de probat. Except the contrarie be prooued. But whie
should we take knowledge afterward of the ministers fit-
nes, seeing the sentence of the Bishop, wherein he pronoun-
ced him fit, is alreadye passed into the force of a matter ad-
iudged and ouer-ruled, beeing not appealed from *c. cum di-*
lecti. Ext. de elect. We must answer, either that all this reexa-
mining is but offpeciall favour, or else that this inquire is
onelie made, vpon some new cause afterward arising. *c. i.*
Ext. de atat, &c. Where we see both the obiection he bringeth,
and his answer in part touched, but not rested vpon. For
the glosse here plainelie decideth, that a ministers former
finesse is not after his ordeining, no not by the successor
of the Bishop that made him, to be scanned vpon, but el-
ther

5. Se
com-
and
arge.
r au-
man
ved?
infla-
ow-
ing in
note
ould
ex-
ause
tee-
the
oba-
ried
bari.
the
ot to
sup-
nim
essi-
hie
fit-
un-
ad-
di-
xa-
e is
r. r.
eth,
For
ner
for
el-
her

Section.

of the Abstract.

Pag. 159.

ther vpon some occasion afterwards newlie happening, or
by speciall grace or direction to the Bishop from the superi-
or. We see also hereby, his wrong translation, his leauing
out of some part, and foisting in of other some, and his wil-
full falsification of the glosse to serue his turne and humoz.
And to this decission of the glosse, that a Bishop may not
deuest one of his lining in regard of insufficiencie, that is
once allowed, agreeth Bartol. as he is alledged by * Panor-
mitane. If (saith Panormitane) it be afterward spied out,
that the minister is verie ignorant, may the Bishop take
awaie his prebend? Bartolus saith he may not, *Modo sciat
officium*, so that he can saie masse: and alledgeth to this end,
c. quando. c. qui ipsi, & c. sequens 38. distinct. And therefore to
conclude, as the authoz dooth, but yet to another end: it be-
houeth all that be in authoritie, in manie respects to see hir
Maiesties lawes striclie executed against such pockelisse
and fanaticall spirits as this, who vnder colour and pre-
tense of lawes in force, which he cannot proue, otherwise
than you haue heard: dooth inforce most dangerous inno-
uations in this church, and most dishonorable to hir Maie-
ties renowned gouernement hitherto, as well for mat-
ters as persons ecclesiasticall: who debaseth with might
and maine, and whetteth mens twongs at the least, against
all that execute or conforme themselves to hir Maiesties
godlie proceedings, in church gouernement and externall
politic: who magnifieth and extolleth the contrarie faction,
and who not obscurelie, slielie or couertlie, but euen plainlie
(notwithstanding his apologie now insuing) bereaueth vs
as much as his poyze spite will serue him, almost wholie of
a lawfull ministerie in England. And I praise God, that by
better weights than these which he bringeth, and by a more
exact touch, both the sufficiencie of our ministers may be
tried, and also for the better encouragement of more able
men for that function hereafter, the linings allotted to the
ecclesiasticall state, may rather be increased, than by cor-
ruption and sinister deuises gelded and shedded, by fores
and

*Panor. in c.
vlt. in fine
Ext. de estat.
& qualis fa-
cis ad hoc c.
accepimus
Ext. d.

and wild bores out of the wood that destroye the vineyard,
and by Nimrods and mightie hunters of Gods people.
For it hath bene, and alwaies will be true, *Honos alit artes.*
And where rewards of learning doe in number or quantitie
decaie, there learning it selfe will not with like alacritie
to any ripenes be pursued. The want of which rewards
of learning in that respect, with lamentable experience,
and too late repentance, some countries already doe taste,
and are like more and more to feele hereafter.

46. Section. Pag. 92, 93, 94, 95.



Now, as though some other better stated man, pitying the former follies and vndutifull lauish speeches of our anthor, and seeking to qualifie them in part, as not so hardlie ment as the words doe import, had stepped heere into plaic, and taken the matter in hand; are we come to a more calme and temperate apologie: not so much of any good loue, as for feare it Might otherwise be vnto him dangerous, as well as it is offense to others. Whereby for the wounding of manie weake consciences, readie to take offense vpon lighter occasions than these, for the calling of the whole state ecclesiasticall into hazard of their ministerie and linings, we shall haue of him onelie a plaister of a few glosing words, to make amends for all. Nothing else but protesting in effect, that he is not so farre gone in these conceits, as some of the same haire are; who doe run so far, that except they quicklie staie, they may perhaps with good desert run themselues of a sudden out of breath. I will therefore briefly examine how he auoideth that, which hath bene so necessarilie gathered of his former speeches; which is, that according to his construction, it may happen euen the best men we haue, to be destitute of any lawfull calling into the ministerie. But in this section before he come so farre,

farre, he maketh a kind of confession, whereby he seemeth
fit to be taken at his word, as being presentlie in a reason-
able good mind. First, He confesseth wee haue a true
church in England, whereby it appeareth he taketh such for no
Honest poore men, nor the Lords watchmen, which say we
haue scarce the face of a true church in England. Next, he
acknowledgeth Hir Maiesties lawfull and sole soueraigne
gouernement, ouer all causes and persons: whereupon may
be gathered, he was not well aduised afore, in seeking
to establish popular elections of ministers, whereupon of
consequence would follow, as also no lesse is included in
the generalitie of his proofs, that Bishops and Deanes no-
minations shall be attributed also (from hir Maiestie) vnto
the people, nor yet when he made the contempt of obedieng
hir Maiesties lawes concerning indifferent rites and ce-
remonies, a commendable thing in them, as proceeding
Of conscience and of feare to offend GOD in any small
thing. For in what causes ecclesiasticall, can hir High-
nesse lawfull gouernement be exercised and bestowed, if
with a good conscience, and without offense of God, they
may be disobeyed in matters merelie indifferent? He go-
eth on, and confesseth, That hir Maiestie ought to put in
execution, according to the prescript rule of Gods word,
the doctrines deliuered by the ministers, for abolishing of
all and all maner superstitions and abuses, retained in the
church, and for the establishing of a perfect gouernment of
it. Whereby we may see, how hard it is for a cat of moun-
taine to change his spots, or a Morian his tanned hue, or
for him to plaie a little vpon his old by-asse. For doth he
not here in a manner plainelie condemne hir Maiestie,
not to haue done as she Ought, nor according to the pre-
script rule of Gods word? Doth he not insinuate the per-
fect gouernment of the church, not to be yet established?
And doth he not expresselie saie; that Superstitions and a-
buses are retained in the church? O wicked and vngrate-
full wretches to the Maiestie of God, and to his lieutenant
Ap. s. the

The author
incon-
stancie.

Factions
speeches.

the Quænes Highnesse! which in regard of so manie and so manifold blessings by hir ministration bestowed, doe recompense and requite them with repining, and with slander in this maner. *Non sic fecit Deus omni nationi*, who make vs all thankefull for them.

The other thre members of his speech and confession in this place, touching the ministers duetie towards magistrats and people, of the peoples obedience to the magistrats and ministers, and of the concurrence of the ministers instruction with the magistrats authoritie in the gouernement of the church, though no more than of the rest I can see how they are incident to this treatise; yet I doe not perceiue any cause whie they should be reiected. Neuertheless, if the minister as doubting of the lawfulness of his owne externall calling; and the magistrate and people as surmising him to haue runne before he was sent, should belæue our autho: in his former nice points about ordinations: I cannot coniecture, that either the minister with any couragious spirit can discharge this duetie, or that the magistrate and people can or will regard that which he speaketh, as they ought to doe, from the mouth of him that is Gods true ambassado: vnto them: or yeld vnto their maintenance their tithes and other duties trulie and faithfully as they ought. The examples which he here bringeth, though some of them sound suspiciouſlie, considering from whence they proceed, are mere apologeticall, tending to proue, that the ministers and people may not of their own head, without the princes authoritie, seeke to execute any reformation, and thereby to purge our autho: from the suspicion of the traitorous heresie of certeine late pestilent Sectaries. But his repining and mutinous doubting with his Ifs and Ands, which he casteth in the necke of his former apologie, whereby, like *Scyria capra*, he ouerturned the milke with his heele, that afore he yelded; doth betwixt his discontented mind, and slender estimation he carrieth of the godlie reformation established by hir State. For
that

6. Se
e and
do re
lan
make
on in
nagi
nagi
mini
ge go
rest I
w not
r the
of his
le as
ould
dina
with
at the
ch he
that
their
faithy
geth,
from
g to
oton
any
e ful
lent
with
mer
the
raie
rieth
for
that

ction.

of the Abstract.

Pag. 163.

what else do these voices yeld, [If hir Maiesties eies be not yet opened, if some blemishes and blots remaine in hir gouernement, if councellors be hired to trouble the building all the daies of Cyrus, if the wals must be reedified by Eliahib, if the church must tarrie Gods leisure, if any other glorious purpose be to worke in our daies by hir Highnesse:] but to fill vnstable heads of the people, to whom this booke was especiallie addressed, with buzzing of dislike to things present, and hope of alterations, and new fangled innouations hereafter: Which conceits cannot tend any waies to hir Maiesties honour, nor worke to the securitie and quiet of the realme. And those which haue so quezie and squeemish stomachs at the state present, ioined with such an effeminate longing, and Absurd appetite of restlesse and endlesse alterations in church matters: I praise God they haue not cause, with the first, neuer to haue wished change, nor that they euer see the time wherein they would with all their hearts desire, with fauour and libertie of conscience, to enioie that forme of liturgie, ecclesiasticall policie, and church gouernement, which by the mercies of God, and hir Maiesties ministerie, are now planted in this church, if they might hope to attaine it! *Bonum non fruendo, sed carendo redditur charius.*

Seditious
speeches and
vndutifull.

47. Section. Pag. 95, 96, 97.



Thus hauing shewed some part of his former Apologie and protestation to be verie doubtfullie deliuered, and both that and other his speeches afore to be verie Offensiuie vnto manie, and therefore that (which his guiltie conscience telleth him) Might haue beene dangerous to his person, is not yet ouerblowne or anoyed: we are now come to his purgation of that which might and hath bene objected, that he Insinuateth indeed no lawfull ministerie to be in England. But he confesseth

P. 4.

now,

now, That euerie one meet and apt to teach, that euerie one qualified as is requisite, that euerie one moued inwardlie by the Holie-ghost, and outwardlie called and appointed by the Bishop, hauing authoritie by the order of this church of England, is indeed, and by law a minister. If these be spoken distributiuelie, as the word Euerie, and the Interfections by $\kappa\acute{\omega}\lambda\alpha$ doe import; then hath he established some a minister without Outward calling, so he be otherwise qualified as is requisite; then may a man be qualified as is requisite thereto, being not apt to teach, nor inwardlie moued vnto it by the Holie-ghost, or outwardlie called & appointed by the Bishop. And what if he (after this mans construction) haue not Authoritie by th' order of this church of England; as not hauing bene consecrated by such a B. as was consecrated according to th' order of the booke established: Which our autho^r maketh so necessarie, as that he reasoneth afore out of the words of the statute negative; to wit, none to be a Bishop, priest or deacon, but such as were consecrated and ordered according to the forme and maner of that booke; but admitting them to be taken iointlie, yet his reasons to proue such to be Ministers indeed and by law, are so childish beggings of that which may be controuersed, that (I assure you) a man might iustlie doubt, that he did but dallie and *Prævaricari* herein. First (he saith) they are so, bicause They are indeed and truth messengers sent by God. Secondlie, bicause they Are ministers by the law of this land. Truelie, this man that was so strict afore, is sone wone, which is overcome with these doughtie reasons, which no man, but he may with as great probabilitie denie, as he may doe the conclusion to be proued, being the verie selfe-same with the premisses, consisting in these two reasons. Touching the matter it selfe, law teacheth vs, that A protestation with a contrarie act worketh nothing. Therefore how can this protestation releue our autho^r any thing, who hath afore plainelie refused all for ministers, in whose ordinations the maner and forme of the booke is not exactlie

Pag. 77.

A childish
fallacie.

Pag. 77.

practice obserued: And which maketh All solemnities therein euen of the least moment to be substantiall and not accidentall, by the law-makers appointment: **Therefore out of his owne words and reasons to proue this his protestation vaine and clusorie, I reason thus.** Pag. 83.

1 Wheresoever the first branch of the statute, for the obseruing of a forme and order in the ordinations of ministers, is broken, there the second branch authorising them to be in verie deed ministers can take no place: But some of the points required, haue beene, and are perhaps dailie omitted in making euen the best men that are in the ministerie at this daie, **and so the forme and order of the booke not obserued: Therefore the best men that are in the ministerie at this daie, perhaps are not in verie deed ministers.** Pag. 77.

2 Wheresoever the forme of an act is not speciallie, and at an inch, and not by any thing equiualent obserued, there the act by meere law is no act at all: But some points of the forme required are perhaps dailie vnobserued in making the best men ministers, **that are in the ministerie at this daie: Therefore, &c.** Pag. 92.

3 Wheresoever a certaine forme and order of proceeding is appointed, to those that had no authoritie before such commission; there if the forme be not obserued, the processe by lawe is meerelie void: But the Bishops before the statute, hauing no authoritie to make deacons or ministers, doo omit the forme perhaps dailie in making the best men ministers: **Therefore their proceeding herein is by lawe meerelie void: and so the best men we haue in the ministerie, perhaps not in verie deed ministers: and therefore (as our autho: often collecteth) are Intrudors.** Pag. 78, 80. & deinceps.

But he, which to the intent he might haue some shew to serue his humoꝝ, and to wrap in either one waie or other those whom he foreiudgeth to be vnlearned, to the danger of vsurpation and intrusion, did tell vs in great earnest, **that all the solemnities about ordeining of ministers, how** Pag. 83.

Preface to
the booke.

Small of moment soeuer they seemed to be by the law-makers appointment, were substantiall, and not accidentall: dooth now in another tune saie, that Learned, qualified, and inwardlie called; and vnlearned, vnqualified, and not inwardlie mooued, dooth differ as much as light and darknes: meaning and insinuating hereby (as I doe gather) that whatsoeuer he hath aforesaid concerning Forme, solemnities, commission, statute, or good faith, they were not so much to the matter, or greatlie to be stood vpon: but that these are *Differentia specifica & constitutina*, of a minister indeed, which maketh him so to be, and thereby onelie dooth, also differ from such as be not. *Quo teneam vultum mutantem Protea nodo?* And if so be these three be the onelie necessarie points, concurring to the making of a minister indeed, and distinguishing a true minister from an vsurped, then may we haue a minister in this church, without the externall calling by the Bishop, which is not here spoken of. If by Learned, he meane onelie such as are apt to teach, and by teaching meane onelie preaching; whie did he not ad also that which S. Paule ioineeth with aptnesse to teach, to be able also to confute errors and heresies? But the booke requirith as of necessitie no other learning, but that he be Sufficientlie instructed in holie scriptures: which that it reacheth not alwaies so high, as that he must be able to be a preacher, is shewed in diuers places afoze. The qualities which the booke speaketh of, are onelie that He be by sufficient testimonie commended, or else knowne to the Bishop to be of vertuous conuersation and without crime; and also that he be found learned in the Latine toong. But that he be inwardlie mooued by the Holie-ghost, to the worke of the ministerie: is a thing left to his owne conscience, and not to be discusled by the Bishop, or any man else; but in charitie, which hopeth all things, to be intended and presumed.

And seeing it is possible for a man berie vnfit at the beginning, by studie, practise, & the blessing of God, to become
suffi-

sufficient: and for him that is now well and honestlie disposed, afterwards to relapse into loosenesse of life; and for him also that is skilled in the Latine tongue, & sufficientlie instructed in holie scripture; either by disuse, or by the visitation or iudgement of God, to become verie ignorant and sottish in both: therefore I do not see (if we knowe not the contrarie) but both by the rules of charitie and law, we are bound to thinke, that yet at the ordination of such a one, he was so qualified in all these points as was requisite. That^a which is agreeable to the nature of any contract, is presumed to haue beene performed. Again, A^b iudge is presumed to haue rightlie executed that, which is incident to his office. Further, That^c which confirmed, and not that which adnulth any act, is intended to haue beene doone. And lastlie; Euerie^d one is presumed fit and capable, till the contrarie be proued. But our authour cleare contrarie to this, euen ὁ ἄριστος πρὸς τὸν ὀμνῶν, will presume all requisites to haue beene obserued by that which appeareth in his conuersation and learning afterwards. So that by this reckoning, a man neuer so orderlie at the first called both inwardlie and outwardlie, vpon defects afterwards arising in him, shall be shut out for an intruder, usurper, or one which by wrong suggestion, and fraudulent meanes, hath attained the ministrie; & he that hath indeed intruded, and without all outward calling thrust himselfe into the Lords harness, so that he haue some commendable gifts of learning, and demeanour, and beare himselfe without publike shame or blot, shall be intended and presumed to haue beene inwardlie moued by the Holie-ghost, and be in verie deed a true and lawfull minister. Pea so stronglie (if we may beleue him) shall this be intended, that it shall be accounted *Presumptio iuris & de iure*. So that we are come to that issue which afore I touched, that the Bishop, when he hath an vnlearned minister vnder hand, such as this man surmiseth all to be which are not able to be preachers, cannot though he would, ob-

^a Bart. in l. cum quid. ff. ficerium petatur. ^b c. in presentia de remun. iat. c. cum inter. de re indicata. c. bono de elect. ^c gl. in c. quoniam am Ext. de probat. ^d L. quoties ff. de rebus du. bjs. c. Abbat. sane. Ext. de verb. sign. ^e L. ab ea parte ff. de probat. spec. de proba. S. I. verb. sequitur videre.

Sect. 45.

serue the solemnities, forme and order of the booke of ordinations. But when a learned man is vnder his hand to be ordeined, then he cannot but stumble (whether he will or no) of all such matters of forme as are appointed. And that this is such a presumption, he bringeth for p^{ro}ofe a glosse, which if he had ment plainelie, he would haue quoted in a more fit place than this; but he was then loth his craftie conueiance should be espied. Which glosse, as may there be perceiued, saith not so much as colourablie any thing tending to this purpose, but the quite contrarie. But (saith it) shall we presume for the parties sufficiencie that is ordeined? *C. post cessionem Ext. de probationibus*, is an argument, that we must so presume, except the contrarie be prooued. And againe, that we must thus stronglie presume and intend, he exemplifieth (for I may not saie p^{ro}ueth) by rescripts Autenticallie sealed, yet procured by vntrue and colourable suggestion: and by a definitive sentence, wherein is a Nullitie. For the first p^{ro}ofe whereof, that the rescript was obtained (*Bona fide*) and that the sentence was a iust iudgement, we must (he saith) presume, till the contrarie of the one be p^{ro}uod; and for the Iniurie and iniquitie of it, the other be reuerfed. Where, by the way, ye may see this mans great skill, which presumeth for the validitie of a sentence, in which is a nullitie, p^{re}fixeth the ordinarie course of appeale for reuerfing of it, & confoundeth it with a reuerfible sentence, in respect of th^e iniustice & iniquitie of it. ^a Whereas a nullitie may be proposed against a sentence at any time within thirtie yeares at the least. And ^b if it be in regard of want of iurisdiction or commission, in ^c causes wherein by lawe no p^{re}scription runneth, or be ^d proposed by waie of exception, the action of nullitie neuer ceaseth, but at any time may be opposed. So that (to returne to the p^{ri}ncipall purpose) that the euent insaing must teach, who were with all due circumstances ordeined ministers, and who failed therein, and that such iudgement is grounded on a presumption of law and by law, we may perceiue is vtterlie left

^a *Inst. de per-
pet. & temp.
in princ. l.
omnes. l. sicu-
ri. C. de p^{re}-
script. 30. vel.
gl. in l. quere-
lam. C. de fals.*

^b *Bald. in l. 1.
C. de rebus
alien. & l. 2.
C. si ex fals.
instrum.*

^c *C. vigilant
& c. fin. Ext.
de p^{re}sc.*

^d *L. pure in
fine ff. de dol.
except. l. si
pactus C. de
exceptionib.*

left unproued. Saie, if he had vnderstood what he writ, he would either neuer haue so rashlie and vntruelie affirmed, that course of iudging to be *Prasumptio iuris* & *de iure*, or else would haue spared his examples, which make directlie against him in this behalfe. ° If a presumption of law, is a most cleare kind of p^{ro}ue, and is so full, that it ^f dooth of it selfe sufficientlie p^{ro}ue, and is most pithie euidence. ¶ The ^s presumption of law and by law, as some doe terme it, will not admit any p^{ro}ues to the contrarie, otherwise than by the confession of the partie himselfe: and is equiualent with any such^h matter, as by the disposition of any statute law, may not be refelled. So that our author matching this presumption with presumption for rescripts and sentences, which by contrarie p^{ro}ues are indeed ouerthrowne, doth giue sentence against himselfe, that concerning ministers sufficiencie by the euent insuing, there is no such presumption as he doth vaineleie tangle on. And therefore he is more stricte, than an eele is with a fig leafe, holden vp to his former assertions, which doe plainelie impugne almost all the ministers in England, partlie for want of weight, and partlie for fashon, notwithstanding his friuolous elusorie apologie, and his absurd protestation, implieing a contradiction in it selfe.

* *L. si tutor.*
cum gl. & ibi.
Bald. C. de
peric. int. &
Bald. in l. i. a
demum C. de
procurat.
L. 3. C. de
apochis publ.
li. 10. Bald. in
l. 1. C. de fidei
com.
B. Auth. sed
iam necesse.
C. de donat.
ante nups.
Alex. in l. non
est verisimi
le. ff. quod
metus causa.
B. Barr. in cōf.
à Dom. Cyno.

48. Section. Pag. 97, 98, 99.



In this section is handled that, which might be objected, that is to saie, whether the sacraments administered, and other parts of execution of the offices incident to that function, shall be accompted rightlie and duellie done by such as our author maketh no ministers at all: To which in effect he answereth, that the actions and publike execution of their functions by them done hereafter, shall be of none effect: but both because till this time No controuersie hath beene moued

Doctrine
dangerous
to the whole
state.

touching the validitie of their calling, state, and condition and also for common vtilitie, and a generall errors sake, the things done heretofore by them, are rightlie and duelie done. But since controuersie now is moued, if the acts done by such ministers after this time shall not be auailable and of force, what confusion and danger this doctrine might bring into this common-wealth about the marriages and baptizings of infinit numbers by such ministers; whereupon, by the lawes of this land the inheritances, dowers, and tenancies by courtesie doe greatlie depend: I leaue to be weied by deepe states men, and wise counsellors. Iste, if it be sufficient for euerie libeller to bring such matters of consequence into hazard, by waking vs (as he pretendeth) out of a generall error, whereof he onelic dreameth: this may we not as well saie, that all which haue bene married or baptized these manie yeares past, shall be brought within the like compasse of danger; seeing both the traitorous papist, and the dangerous Innouator hath troden the same steps, and skirmished as hoatie as this man doeth a long time, against the lawfulnessse of our Bishops, priests, and ministers, and with their calling into that function? But (thanked be God) all their complots, though they be like to Samsons fores distinguished by heads, but linked together by the tailes, and tend all to a perillous trouble and combustion in this state; yet there is small weight in any of their words, and all their forces are but wast wind, and paper shot. The first reason he useth for prooffe, that The administration of sacraments and execution of their offices hitherto, is rightlie doone by such as he iudgeth to be no ministers; is taken from the uncerteintie of their lawfulnessse, and quoted verie strangelie *Cod. de test. li. 1.* which would require a longer time to seeke it out, where it cannot be found, than I may affoord him. Yet I thinke he ment *L. 1. C. de testamentis*, which decideth in another cause something to the like purpose; that It is not to be discussed, whether the witnesses were bond or free, which in
opinion

opinion of all men were holden as freemen at that time,
 when the testament was consigned, and such as against
 whome, none to that daie had moued any controuerſie of
 their condition. So that the reason of the decision of this
 law is not the vncerteintie of their ſtate, which could not
 be called vncerteine, being not ſo much as doubted of; but
 the generall error, which is his ſecond reason in this be-
 halfe.

And where he ſaith (I know not vpon what warrant) Contra-
rietic.
 That the thing which is vncerteine, is as though it were
 not at all, he ouerthroweth his owne purpose in this place:
 for if ſuch miniſters ſtate before controuerſie therof mo-
 ued, were vncerteine, then are they hereby euen at that
 time, to be reputed as no miniſters at all. In the firſt place
 brought for proſe that a generall error maketh lawe, and
 that therfore the generall error conceiued hitherto of ſuch
 miniſters lawfullneſſe, ſhall uphold all publike functions
 of the miniſterie by them till this time performed: no di-
 rect mention of any common error is made, but that the
 award of a compromittée ſhall ſtand, which is giuen by a
 bondſman in truth, yet being in poſſeſſion of his freedome.
 His ſecond place is falſe quoted *Ad Maced.* in ſtead of *De*
S.C. Macedoniano. In his third place, both in his originall
 and in his tranſlation, by following the corruption of the
 old text yeelding no perfect ſenſe, and contrarie to the cre-
 dit of the Florentine or Piſane Pandeſts he taketh *Propter* Miſtaking.
uſum imperatorum, bicauſe of the uſe of emperors, in ſtead of
Propter uſum imperitorum, by reaſon it is ſo uſed by rude and
 ignorant. His fourth place * to this purpose, which is the * L. 1. C. de re-
ſtamentis.
 place he quoted wrong afore: in this ſection, is here left
 quoteleſſe. Out of which places, together with the lawe
 Barbarius Philip. he concludes, that in thoſe ſeueral caſes,
 ſo in the matters done by theſe onlie pretended mini-
 ſters, the common error ſhall make them auailable, and
 to be reputed Rightlie and dulle done: wherevpon I doe
 further aſke; as Barbarius Philip. though a bondſlaue in-
 deed,

* *L. quod at-
zinet ff. de
reg. iuris.*

Pag. 94.

Ignorance
in law.

Childish
babbling.

deed, being duly chosen p̄etoz in Rome, was reputed a iust possessor of his office, though he himselfe knew, that he was of servile condition, and* therfore not capable: whether an unskillfull minister formallie ordeined, though as our author beareth him in hand, he himselfe full well do knowe that he was unworthie, and therefore came in by guile and deceit, may not in like sort be cleared from intrusion; and be adiudged a iust possessor by the said common error: And if he may so, why may he not continue still his said possession, seeing he is no more *In mala fide*, than he was in at the first, by our authors supposal? But he is afraid of another doubt, least as the said Barbarius, being once chosen p̄etoz, though the people who elected him knew not so much, and therefore could not haue any such intention, was by the verie operation of law thereby enfranchised: so our ministers, though indeed uncapable, yet by the ordination of the Bishop being a publike person, & trusted by the whole realme, in this action, should be likewise reputed in the eye of the law, thereby inabled against any incapacitie. This knot he wrestleth with, to untie thus: that as the award of an Vmpier reputed generallie a freeman, shall therefore be in force, though he remaine a bondman (as afoze) to his former maister: and as the sonne being once commonlie reputed otherwise, but afterward indeed detected to be vnder his fathers power and tuition, cannot become a debtoz vnto me vpon borrowing of monie (which our author contrarie to law extendeth generalie to any contract:) and as bondmen vpon common reputation for freemen, hauing profitablie bene vled for witness, being knowne as they are, may be reiecte from bearing witnesse: euen so, though Barbarius were made free by the people, yet the maister was by lawe to haue the price of his seruant at their hands. Which being thus anatomized, we may well perceiue, are so far from all consecution, that they haue not so much as any similitude together. But what if the people must paie the price of

of the servant, may he not be free as the law appointeth? And may not (any thing here notwithstanding) the minister duellie ordeined for outward forme, reteine in like maner his ministerie, as Barbarius did his freedome? But I cannot coniecture either why he saith that Common error cannot take awaie priuate interest, which no man affirmeth: or how he can conclude, with any colour vpon these vnlikelie comparisons, That much lesse can common error of a few, barre the whole church from a publike benefit due vnto them. And I pray you, if this be the error but of a few in authoritie, how can it be common, and thereby uphold the functions of the ministerie executed by no ministers? Naie how can it be the error of the Bishops (whom he meaneth) when as he chargeth them to be *In mala fide*, and to Knowe at the time of ordination that such cannot be qualified accordinglie as is required for the ministerie? But to cut off all at once, and to shew plainelie, that if such as be no preachers, or any other, be indeed and truth no ministers at all, as our author hath laboured to proue, then Common error, though in some cases it be ^a holden for truth, and doo ^b make law, yet in this point it shall not make good those pretended functions of the ministerie, which erroniously such men haue executed and performed. It is to be vnderstood, that among manie exceptions and limitations of that rule, this is one: First if the partie, vpon whome the common error runneth, be not ^c solemnlie and duellie elected to his place, then doeth it make no lawe, nor make the acts of force that is done by him. But our author himselfe saith, that all our ministers ought to be elected by the people, which yet is not performed, that in the ordinations of the best men we haue, some solemnities are dailie omitted, and that it is so sure, that solemnities and other matters of forme are omitted at the ordinations of vnlearned ministers, that it is *Presumptio iuris & de iure*, that they were not rightlie and formallie ordeined. Also this rule faileth, ^{*} when at the verie beginning, the impediment

Contrarie.

Pag. 89.

^a L. 1. & ibi.
DD. C. de testamentis, &
l. 2. C. de sentent. ex peric.
recitandis, &
in l. Barbarius
us ff. de officio
Pretoris.

^b 3. q. 7. §. vii.
ver. verum.
^c Bart. in l.
actuariorum
C. de munici-
palijs, li. 12.

& in l. de qui.
ff. de legibus
& Bald. in l.
2. C. de manu-
miss. vind.

^{*} L. 2. C. de
sentent. &

*interlo. 3. q. 7.
S. via ver.
verum. c. ad
probandum,
Ext. de re iu-
dicata. Abb.
in c. sciscita-
tus de resc.*

** Abb. inc.
Apostolic.
Ext. de presb.
non ordin. gl.
in c. dudum c.
nihil, & c.
quod sicut. Cl.
2. de electio.
* Archid. 11.
q. 3. c. 1. &
Bald. in l. 2. C.
de sent. & in-
terl. omnium
iudicium.*

** T. C. Ref. lie.
pag. 518.*

ment was apparent. Now, if we may believe our author, the impediments hindering these unlearned men to be ministers, are so evident, that euerie man being present may see the Bishops Proceedings heerein to be contrarie to lawe, and being absent may haue By experience such certeine knowledge of his misdemeanors and ignorance, that by the most full and plaine p^{ro}ofe that may be, not admitting any p^{ro}ofe to the contrarie, euen By presumption of law, and by law, it may be intended he was vncapable at the time of his ordination. And mozeouer he surmiseth certeine impediments, whereby such a man is hindered from being in deed and truth a minister, to be knowne both to the Bishop, and to the partie ordeined. And * againe, this rule indeed holdeth, and erro^r maketh law, in matters depending of iurisdiction; but not in matters grounded by on orders, no^r in sacramentals, in which, rather truth, than common opinion is weighed. And therefore it is * said, Generall and common error in spirituall matters dooth worke and enure to nothing. Wherevpon it resteth still firme and inuiolable, that if we haue so manie (as he in-foz-ceth) onelie pretended ministers in this church of England, not being so in deed and truth: then shall the acts and functions of the ministerie executed by them, be of no other force (notwithstanding the common erro^r) than if they had bene done by mere laie men both in deed and common reputation. Paie by this mans platfo^rme, the priests made in time of poperie, being not so much as capable of the ministerie, and the ministers ordered in the time of king Edward, and hir Maiesties reigne that now is, being no ministers indeed, bicause they were not chosen by the people, which the booke and law requireth: it will follow, that we haue no ministers indeed, and by lawe in this church of England. Now it is a p^{ee}ce of our new church-modell also to * affirme, that Not onelie the dignitie, but also the being of the sacrament of baptisme dependeth vpon this, whether he be a minister or no that dooth minister it. To which

which also the opinions of the ministers of the reformed churches in France seeme to be conformable, where they saie: *Le baptisme, &c*: The baptisme administred by him, which hath not commission or anie vocation, is wholie void. But the common law of the land maketh espousals void to the intent of legitimation or inheritance of the childzen, where the matrimonie was not celebrated by a priest or minister: and suffereth none to be capable of any benefit of a subiect in this land, which is not baptized. So that we see, a more pestilent plat, than this man hath laied against the particular interest of euerie subiect in this church and common-weale, cannot be deuised by the most seditious traitor in Rome or in Rhemes, nor by the most stirring and tumultuous diuell in all hell: if all that were true, which he and his complices doe deliuer vnto vs as vndoubted truths, here and else-where, in their peremptorie and perillous assertions.

* Art. 4. du
Baptisme, en
la discipline
eccl. de France.

The authors
most pesti-
lent assertiō,
and the con-
sequence.

49. Section. Pag. 99, 100, 101.



In this place our author goeth about to confute those that take vpon them to exempt Bishops from blame For placing vnlarned men in benefices, by reason of the corruption, couetousnes, and simoniacall compacts of sundrie patrones. But what colour

of excuse can this yeld to Bishops in any mans imagination, whie they should call insufficient men into the ministerie? For I hope his malice is not so great, as to charge them, that they make insufficient men ministers, onelie to serue the turne of Couetous patrones, whereby they may make their markets more gainefull; and vpon refusall of their clearkes, that they may haue aduantage in law peraduenture against the Bishop himselfe that ordeined them.

Pet to follow him a little in this matter of bestowing benefices

c. exsurpand
Ext. de pre-
bendis.

nifices: with what forehead can any man but a little experienced in the world saie, that the greedinesse and corruptions of patrons is but a Feigned cause of placing vnlearned men in benefices, except he will denie the sunne to be vp at midday, or such a one, as the god of this world hauing blinded, doth thinke the smell of gaine to be good out of anie thing, as Vespasian did *Ex lotio*? And can he saie this is but Feigned, who talketh so much of a presumption by law, when as the law it selfe (though there were not too lamentable experience of it in this common wealth) doth tell vs, Bicause patrones leaue so small a portion in some places to the ministers, so that they cannot competentlie thereby be mainteined: herevpon it commeth, that in such countries, scarce one minister of a parish church can be found, which hath euen but a little skill in learning? But If it were true, he saith he will neuerthelesse Let passe diuers answers, which aptlie might (as he thinketh) be vsed in this matter. One is, bicause the Bishops office is More painefull than gainefull, and he that tasteth the sweet, ought also to tast of the sowre. Therefore he should refuse to admit any not so qualified, as our author meaneth, vnto a benefice: yea though he were sure that after all his trouble and expenses, such a cleрке should be placed by the course of the common law, maugre his beard. So that by this mans accompt, it is better purposelie without cause or hope of preuailing for a man to trouble himselfe and spend his monie, than to be quiet: and better to rise vp and fall, than to sit still. Saie, with what credit can the Bishop reiect a man as vnable, whome he is sure the law of the land will repute sufficient? Therefore it is maruell that our author, vpon this colour, did not here runne into a common place, against the common law, which is more loose in allowance of clearkes vnto benefices, than he would beare vs in hand the canon law is. But *Latet anguis in herba*, There is a pad in the straw. The next answer, that if the Bishop susteine any hurt by refusing to admit to a benefice an insufficient

sufficient man, the blame is to be imputed vnto no man but himselfe, which ordeined him : is the same with that answer, wher vpon he afterward relieth, though here he saith; He will let it passe. Lastlie, he telleth vs he will also let passe the exhortation, which the Bishops canons doe prescribe to be vsed vnto patrones to persuaade them to bestow their benefices sincerelie, and vpon sufficient men : which indeed he might with better discretion neuer haue named. For alas ! is the Bishop giuing a good and wholesome exhortation to the patrone, to be found fault with, because the patrone hauing his hand on his halfe penie, will not suffer himselfe to be persuaaded by him, to doe as he ought? But he alledgeth in defense and fauor of a Patrone presenting an vnlearned man to a benefice, that he is not to be blamed by the Bishop, but himselfe is to be chieflie burthened and blamed, who ordeined such a one minister : and the rather because The benefice is due by reason of the office. Yet the Bishops blame and reprehension cleareth not the patrones couetousnesse, his want of zeale, to haue the people as well taught as he might, his theft, his sacrilege, his simonie, his abbetting and procuring of another man to be periured for his owne lucre. For there is none of them so simple, but they well know, that these are thus by law condemned. And what by themselves, and what by others (at least when the Bishop vpon examination dooth find it so) they might take knowledge that a more learned and sufficient man might be easilie procured, who would accept it thankfullie : which because the patrone cannot breake his fast with, he therefore will not be remoued from him that hath most slender gifts of mind, because such a man hauing little else to commend him, will be content to depart with the greatest gifts to the patrons purse and bitchin. And yet may it not fall out, that the Bishop vpon good consideration may refuse to admit him to a benefice, whome he hath afore receiued into the ministerie? For perhaps he may be fit for some small charge and living

P.s.

(which

(which a man of greater gifts will not accept of) though he be not fit for a more populous parish, being a sufficient maintenance for a more excellent man. Or else it may be he hath not from the time of his ordering bene so painefull in his vocation, or so warie in his conuersation as were requisite, whereby he might deserue a better place. So that this is not so generallie to be verified as he here doth, that Whom a Bishop hath reputed meet vnto orders, him he ought also to thinke meet vnto anie benefice. For

^a Glo. c. cum secundum Apostolum. ver. liceat. Ext. de preb. & dign.

^b Gl. d. c. i. etat. & qualitate. & gl. in c. accepimus ver. examinari. d.

^c Gl. d. per c. ad hac. Ext. de offic. Archid.

^d Gl. d. per c. nihil est. & c. venerabilem. Ext. de election.

^e Gl. in c. accepimus. ver. reputare Ext. de etat. & qualitat.

^f L. relegatorum S. ult. ff. de interd. & relegatis. c. nos consuetudinem diff. 12. c. scriptum est. Ext. de elect.

that if a Bishop of another diocesse did ordeine him for some meaner place of charge, which else might haue bene wholie destitute of administration of anie sacraments: or else his predecessor in that place? May not he neuertheless vpon ^a cramination finding his weakenesse, for the place which he is presented vnto, with good reason and by law reiect him? Yes verelie. And what ^b if some new matter haue fallen out since his ordering, worthie to be looked into? Trulie the like iudgement is to be giuen as before. Likewise a minister may be newlie examined, and vpon cause sufficient also reiected, from obtaining a benefice, euen by him that did ordeine him, if he were ^c examined but by his archdeacon afoze, to the which ^d cramination the Bishop is also bound. Againe, ^e they that haue tolerated in an inferior office a man criminous, may neuertheless take exceptions against him, when he is to be higher preferred. And lastlie it is no strange matter to affirme, ^f that a man may lawfullie retaine a place of lesse estimation, which yet ought not to be preferred to a higher. By all which may appeare, by how manie meanes the Bishop by law may be exempted from iust reprehension, though a clearkie being made a minister by some Bishop, and peraduenture by himselfe, be reiected from obtaining some benefice. And hereby also the small relæse appeareth, which couetous patrones are like to catch by this his cold apologie for them. Yet we may to good purpose obserue our author's endeour, who when ignorant ministers are once ordeined

deined (whom he thinketh no ministers at all) yet in fauour of simonie, for gratification of corrupt patrones, and to loade Bishops with all the blame, can be content to plead thus for their placing in Benefices, whome a little afore he would not haue intituled to the Office of the ministerie, in which onelie respect (here he saith) The benefice is due.

50. Section. Pag.101, 102, 103.



At he telleth vs in verie pittifull sort, as sorowing that they should be so misiudged, that These couetous patrones are great beames in the eies of Bishops, pluralitie men, and non residents, for feare that by simoniacall compounding with poore simple

men, the fat should be wiped from their beards, which otherwise they would haue expected for themselves. And if they be indeed so great beames in Bishops eies, which yet they wish to be cast out as principall meanes for the fostering of an ignorant ministerie, euen in those liuinges which being entirelie employed, were sufficient to mainteine men of good and commendable gifts: then are not Bishops so great maintainers and cherishers of ignorance in ministers, as he would in this treatise so often insinuate. But whie they should maligne couetous patrones, for feare any liuing by simoniacall compacts shuld be drawne from them, I cannot for my part coniecture; seeing they are not capable by ordinarie course of lawe, of any such inferior liuinges. And (I pray you) dooth the corruption of couetous patrones reach no further to the damage or hindrance of any, but onelie of pluralists, and non residents? But he taketh that as granted, and will proue by the answer of a couetous patrone to This pluralitie man and non resident, as it seemeth καὶ ἐφοχλῶ: That the people haue no greater hindrance by an vnlearned man not preaching, and hiring out his benefice vnder foote vnto his pa-

trone, than by a learned man not resident, and not preaching, hiring it out to his curate after a rounder rate. The patrones demand to the learned pluralist is to this effect: Whether it is not as lawfull for him to bestowe a benefice of his patronage, vpon one not able to preach, reteining by couenants all sauing a little, and procuring quarter sermon to be preached for him: as to bestowe it freelie vpon a great learned man, that either will not, or dooth not preach, but hireth one as ignorant as the patrones clearke to serue it? Trulie, if he that can, either doe not preach at all, or not so diligentlie as were conuenient, though the difference be a great deale lesse than all good and carefull men could wish: yet is there other so great differences, that he needed not to haue béene κῶρον πρόσωπον, or to haue béene stroken so dumbe, as our autho^r (like a merrie man) dooth fanſie. First the one hath positiue law of the land to warrant it, the other hath none. In the one, the patrone dischargeth the part of an honest man, and according to the trust reposed, and the person that might performe dutie and will not, is onelie to be blamed: but in the other, the patrone for his owne filthie lucre is content, both that the people doe remaine during the persons life without all hope of féeding, & that the person by wilfull perſurie which he procureth and abetteth, doe become not onelie irregular euer after, but also to hazard without Gods wonderfull mercie, * eternall damnation. Again in the one the Person onelie bereaueth the people of their spirituall comfort: in the other, they are not onelie bereaued of this, but the patrone robbeth both them and the person of their goods, wherevnto neither by Gods law, Ciuill, Canon nor Common, he hath or can haue any interest; and in the meane time the person is his abbetto^r in this robbery. Lastlie, in the one there may be hope, that he may doe good hereafter, (seeing he is able) either by constraint, or for conscience: and yet in the meane time he is considered with that as with an exhibition for his paines and trauell, before suffer-
ned

* 1. q. 1. c. si
quis & quin-
que ca. si q.

* c. presbiter
si. 1. q. 1.

ned in studie : but in the other , as there is no cause to re-
compense his former trauels; so is there small hope of his
attaining to that sufficiencie, which is supposed to be in the
former. But in case he should attaine to such abilitie , and
accordinglie put the same in vze : then should he haue a
double iniurie : both to haue made shipwacke of his con-
science , and after to be depriued by the patrone of the de-
serued fruit of his labours. But our authoꝝ cleane contra-
rie , as not so greatlie misliking couetous patrones, and
such of them as are come to that impudencie , as to make
vnto their wiues assurances of a certeine annuitie after
their deaths, to be leauied out of a presentatiue benefice,
least perhaps he should pull some of his owne dearlings
by the nose; auoucheth the corrupt dealing betwixt the græ-
die coruozant patrone, and the needie simple snake, To be
lesse hurtfull to the common-weale, and lesse sinfull to the
Lord, than the other . Wherein he dealeth like himselfe,
thus to extenuate the most present poison , and most dan-
gerous canker , that fretteth alwaie the number of stu-
dents of diuinitie from the church in these daies, of any o-
ther pestilent practise whatsoeuer : and thereby to solve cus-
sions vnder their elbowes, and to lull asleepe in the bed of
securitie, those his clients ; who vnder an hypocriticall pre-
tense, of disburdening themselues of the cares and trou-
bles in gathering by their duties, are as readie (rather than
faile of liuing) corruptlie to share with their patrones , as
their patrones are precise and exact in omitting nothing
that may fill their pouches , though it be with the spoile of
the church , and the steine of their ministers conscience.
Lesse hurtfull (he saith) it is to the common-weale, bicause
of the patrones hospitalitie , and releefe of the poore of the
parish by this meanes . And is indeed the patrones libe-
ralitie so strait laced by , that his house shall hold of our la-
die, and that he will giue nothing for Gods sake , except he
may haue the personage barne to make the dog in his mill
to barke , and the tieth wood of the parish to make The

poore a fire once a yeare in his hall? Trulie this is nothing
 else but to bring the price of a dog into the Lords sanctua-
 rie. But what if the patrone dwell farre off? Or the parish
 where he dwelleth be almost dispeopled? Or what if it may
 be trulie answered, that the most Non residents kitchins
 be oftentimes in the yere not cold as his dogs nose is, but
 as hoat as his owne; shall not his dog-bolt reason, taken
 from a dogs snout, be laid asleepe, till some bodie helpe
 it by? As for his other inuective, for carrieng the reue-
 nues arising in one place vnto another, I hope he will no
 more urge it in them, as hurtfull to the common-weale,
 than he may doe in temporall mens livings, or in the li-
 uings and exhibitions of some ecclesiasticall men his fa-
 uourites. And whie not (I praie you) without damage to the
 common-weale, out of Ireland to Cambridge, as well as
 from London to Germanie? Out of Wales into Oxenford,
 as out of Wales into Warwicksheire? From beyond Lin-
 colne to Salisburie, as from besides London to Gernsey?
 And from besides Leycester to Carlil in Cumberland, as
 from Kent or Northfolke into Northamptonshire? Lesse
 sinfull (he saith also) it is to the Lord, because the patrone
 enioieth his right by couenants & good-will of the incum-
 bent, and oftentimes with the consent of the people, whose
 clearke they willinglie receiue to be placed among them.
 But admit these reasons were true, yet hereof it dooth not
 follow, that It is lesse sinfull than non residence is: for the
 non resident taketh no oth by the Ordinarie for his resi-
 dence, as he falslie (yet boldlie) anoucheth; but all that be in-
 stituted, either take, or ought to take the oth, for not com-
 mitting simonie, by themselves, or others by their prui-
 tie, either directlie or indirectlie. As for the promise of resi-
 dence to the patrone, it is a thing in fact, and presumed not
 lightlie onelie, but also vaine by the authoz, being more
 probable that the patrone, if he were so desirous of the per-
 sons continuall companie, would bind him sure inough
 from starting; yet if it were made and broken, the foulness
 of

of this sinne will not counteruaille the hainousnesse either of periurie in the person, or of theft and pilftring by the patrone. For how can he before God be exempted from the guilt of theft, which enioieth ecclesiasticall living without warrant, either of Gods law or mans law: That which he saith of non residence simplie to be both against the law of man and ordinance of God, remaineth more aptlie to be discussed in another place. But as touching the consent of the people, who no doubt giue a verie free consent to allow well of him, whom their patrone liketh for his gaines sake, and whome they dare not mislike for feare of the patrones displeasure: as it is neither required by Gods nor mans law, so doeth it make nothing at all to the qualifieng or rebating of the edge of Gods wrath, against this detestable sinne of Simonie, and church-robbing. His other excuse or eleuating of the sinne of simonie by the good-will of the person, may be * compared to the good will of him, that to unlade the ship in a tempest departeth (in a sort willinglie) with his pretious treasure, which with his owne hands he casteth ouer ship-board, to saue his owne life. But the patrone (he saith) enioieth a Right in the church-living by covenants. Right he can not haue to that, which both Gods law and mans law doeth detest; and the covenants are vn-honest, being by law condemned, and therefore by no law do bind either of the parties, but are merelie void.

* Aristot. 3.
Ethic.

51. Section. Pag. 103, 104, 105.



Erre he resumeth againe the obiection made in fauour of the Bishops: who are supposed to admit insufficient men sometimes to benefices, least by a writ of *Quare non admittit* brought at the common law, the clearkes reiected, to the great vexati-

on and charge of the Bishop, should notwithstanding be admitted to the benefice. And saith, It is an obiection not

P. liij.

to

to be objected. Truth it is, that this objection is not worth the objecting, and therefore he that took upon him in behalfe of others, thus to frame it, if his skill had bene any greater in the common lawes, than it is in the ciuill; he would sure haue framed it better, and with some more

* Br. de quare
non admittit.
Natura bre-
uium uetus
et noua.

* Natur. bre-
uium ibidem.
Et noua na-
tura breuii.
fol. 47 g.

* Ibidem, li-
ser. f.

likelihood of probabilitie. For the writ of *Quare non admittit* doth not lie vpon the reiection of a clearge by the Ordinarie for insufficiencie onelie, but where the Ordinarie refuseth to admit his clearge, he hauing by action at the common law recovered the aduowson of the church, against some that likewise pretended right vnto it. And by the writ of *Quare non admittit* brought, if the plaintife preuaile against the Bishop, he shall not thereby recouer his presentment against him, but damages for not admitting. And therefore it is to be brought in that countie onelie where the refusall was made, and not in the countie where the church standeth, as in *Quare impedit* is required, where the presentment is also recovered. Yet this (if I doe not mistake it) may contrarie to our authoꝝs intention be hereof gathered: that the Bishop which shall refuse to admit such a patrones clearge (for insufficiencie peraduenture) as hath recovered against another man the aduowson and right of patronage of a church, may vpon this writ of *Quare non admittit*, be cast in irrecoverable damages, though the clearge doe not thereby procure his institution. So that we see the Bishop which shall reiect an insufficient clearge, besides the charges and trouble he may be put vnto, vpon a *Quare impedit* yer it come to triall before the Archbishop, is not otherwise cleare from all danger in this behalfe: though both by ciuill, canon, and common law (as he saith) the examination and iudgement of a clearkes sufficiencie, doe appertaine to the cleargie. Yet the first place, which for prooue hereof he bringeth out of the Autentikes Col. 9. hath no such matter, but onelie sheweth in some part, what kind of men such must be, as are to be assumed for clearkes. Likewise the last place out of the

the common law alledged, speaketh of a cleark reiected, not as insufficient, but as criminous, not mentioning at all to whome the examination and inquirie of his sufficiencie doth apperteine: but saith onelie, that a spirituall man may know his owne cleark. But as not being sure of his grounds out of the common law, which he standeth vpon; and yet minding to be sure to deriue and conuey all the hatred and enuie of planting insufficient ministers vpon the Bishops, he teacheth the Bishop to depose such a cleark for vnabilitie, whome the common law hath thrust into a benefice, against his will. But doth he thinke the reach of reason of so manie notable men in the common lawes to be so short, as that they will be to seeke to find an Oliuer for this Rowland? Or whome they haue by a iudgement at their law found to be sufficient, shall they not be able to mainteine him in his liuing once gotten, being called againe into question, but vpon the same cause onelie: But how can this deuise stand, if our authoꝝ reason afore brought were good and generall, that Whom the Bishop hath reputed meete vnto orders, them he ought to repute also fit for a benefice? Or with that other paradore of his, which giueth To all the people an interest in the election of their minister? Shall not they haue also, according to the rule of law, an interest in his reiection and deposing? And what if his insufficiencie be not so great, as that the law will allow his deposition in that respect onelie, according to that which to this purpose hath bene already spoken, although the Bishop might haue good reason to induce him to thinke him unfit for the benefice, which he was presented vnto: shall he neuerthelesse, otherwise than law will warrant, proceed to his deposing? Paie, if this were tollerable, the Bishop might with better pretense and lesse danger or trouble, vpon finding him unfit, giue presentlie Definitive sentence against him, that he is no minister at all, as our authoꝝ hath learnedlie taught him, and then would the matter be speedily dispatched. But yet

Impertinent allegations.

Inconstancie.
Pag. 101.

yet further, what if the partie appeale and prosecute euen till it come to hir Maestie, and make the Bishop the partie appealed in euerie instance, as hauing done him the iniurie? Must not the Bishop be forced either to sit downe and yeld, or else to his intollerable charges to prosecute, and perhaps in the end be ouerthrowen, and so paie charges also which the appellant hath defraied? Cruellie, if euerie Bishop should follow this plat, and should sake to depose from the ministerie, whom our autho^r indgeth no minister for insufficiencie, he had need to be either indued with a Dictators power without all appeale; or else to haue as much liuing as halfe the Bishops in England, onelic to be expended in following these sutes in his owne onelic diocesse.

¶ *Confess. Ecclesi. Helueti.*

We condemne all vnmeet ministers not indued with gifts necessarie for a shepherd that should feed his flocke. Howbeit, we acknowledge that the harmelesse simplicitie of some shepherds in the old church, did sometimes more profit the church, than the great, exquisite, and fine (but something too hawtie) knowledge of some others. Wherefore we doe not reiect now adiaies the good simplicitie of certeine, so that they be not altogether vn-skilfull of God and of his word.





¶ A necessarie Appendix concerning cer-
teine points of externall policie and
gouvernement in the church,
occasioned vpon the authors
speeches.



Our author hath told vs in his
booke, ^a that Our cheefe prelates haue ^a Pag. 19.
not yet abandoned the policie of the
traitorous law-maker, that it is pe-
rillous for the gouernement of the
state of the Lords houshold, and not
meet for the Lords seruants to be gui-
ded by, that they vse wilfull disloyaltie to the Lord, that
the procurations, dispensations, ceremonies, non resi-
dence, excommunications, visitations, paiments of oblati-
ons, courts of faculties and licences are mainteined onelie
by the popes lawes, and are all popish: ^b that the applieng ^b Pag. 19, 20.
of that to good vses, which hath bene abused, dooth accuse
the sonne of the most highest, that he hath not dealt faith-
fullie in his fathers houshold (by) giuing them as perfect a
law for the gouernement of his houshold, by discipline, as
by doctrine: ^c that for their fellowe-seruants sakes, they ^c Pag. 20.
ought to be more fauourable to their Lord and maisters
cause: ^d that they doe execrable mocke and delude the ^d Pag. 30.
Lord to his face: ^e that a Bishop and minister ought so ^e Pag. 35.
to minister the discipline of Christ, as the Lord hath
commaunded, though the lawes of the realme should
not haue receiued the same: ^f that no discipline in truth ^f Pag. 36.
can be said to be the discipline of Christ, vnlesse it be in-
deed ministred, as the Lord Christ hath commanded the
same

- ^sPag.36. same should be ministred: **that** ^s it is vtterlie vntrue to say, that our discipline vsed in the church of England, is in verie deed the **orie** same discipline, which the Lord Christ hadh commanded: ^h **that** the saints of God, and loyall subiects to hir Maiestie, calling for discipline commanded by the Lord, and in truth establisshed by the lawes of hir Highnesse empire, haue open wrong and intolerable iniurie offered at the cheefe prelats hands: ⁱ **that** the law dooth indeed for them authorise that, which the same law in appearance onelie approoueth for the other: ^k **that the cheefe prelats** are not so faithfull to the Lord as were expedient for them, that they accompt not the Lords waies to be the best waies, his counsels not to be the wisest counsels to interpret the meaning of the statute; bicause they are such waies, as wherein the Lords seruants applie themselves preciselie to walke, and therefore ignominiouslie are termed Præcisians: ^l **that** the statutes of the realme giue to all the faithfull of the land an interest in choise and allowance of their pastors: ^m **that** at the entrie of hir Maiesties reigne, the whole maner of the gouernement of the synagog should haue beene altered: ⁿ **that** at that time their lawes were vnaduisedlie translated from them vnto vs: ^o **that** they which be called [Puritanes] make conscience not to offend God in any small thing: ^p **that** for their conscience sake they are thought worthie to be whipped and excommunicated: ^q **that it is a matter woorthie inquirie**, whether the pastor of euerie congregation be suffered to execute the discipline of Christ authorised by Act of parliament: ^r **that** those who haue spoken touching matters onelie of discipline and ceremonies, where vpon before Bishops they are sifted with othes, haue spoken or preached out of the word of GOD, the truth of God touching the same: ^s **that** the freends of reformation are greater freends and mainteiners of hir Highnesse prerogatiue, than the other be: ^t **that** the enimies of reformation, are enimies to hir Maiesties prerogatiue: ^u **that** they onelie execute
- ¹Pag.62.
- ²Pag.74.
- ³Pag.74.
- ⁴Pag.91.
- ⁵Pag.91.
- ⁶Pag.263.
- ⁷Pag.264.
- ⁸Pag.227.
- ⁹Pag.231.
- ¹⁰Pag.228.

execute such iurisdiction as by popish constitutions, or popish customes hath beene heeretofore annexed vnto their dignities, and that by an vtter enimie to hir royall person, state, and gouernement: * **that** the popish ecclesiastical law ought to be abandoned, and as a froth or filth to be spewed out of the common-weale: ʸ **that** hir Maiestie can by no meanes more honour the Lord, than vtterlie to abandon all semblance of any gouernment, proceeding from an enimie and traitor to his Maiestie: ʒ **that** for the gouernement of the church we haue the perfect and altogether righteous law of God, to rule the same by. **Also** * by waie of supposall, he seemeth to doubt, that the Lord hath not yet graciouſlie opened hir Maiesties eies, to vnderstand all and singular mysteries of his testament, **that** blemishes and blots remaine, **that** aduersaries to the people of God doe hire counsellours to trouble their building and deuise, all the daies of Cyrus, **that** the walles are to be reedified by some Eliaſhib, **that** the church must yet tarrie some leifure, and **that** it may be some other glorious worke is to be doone in our daies by hir Highnesſe: **with** infinite ſuch like ſaiengs, proceeding from the ſaid puddle of pride, faction, rancor, and diſſoialtie. Wherevpon we may gather, beſides his vnthankfulneſſe to God, and vndutifulneſſe to hir Maieſtie, by whose miniſterie God hath ſingularlie bleſſed vs, beſides his boiling malice againſt the ſtate eccleſiaſticall, his factious greedineſſe of innouation, and his ſchiſmaticall titles of glozie, laid with a kind of peculiar prerogatiue, vpon thoſe who impugne lawes vnder colour of their wiſhed reformation: **that** he is perſuaded, and ſo would haue others to be, both that diuerſe points of their new church-plot, are by lawes of this land eſtabliſhed, which yet are kept from them by ſtrong hand: and alſo that there is ſome perfect, exact, and ſet order, of all externall policie, concerning ceremonies and diſcipline in all church matters preſcribed by the commandement of Chriſt, which is not yet by law eſtabliſhed, as it ought to be,

and

* Pag. 238.

ʸ Pag. 238.

ʒ Pag. 239.

* Pag. 95.

*Pag. 92.

*Pag. 105.

and from which in the meane time this church of England wholie dooth varie. That he thinketh they are debarred of some thing, which they wish and ought by law to enioy, it may appeare partlie by some of his speeches aboue mentioned, but more plainelie * where he calleth for certeine Orders and lawes to be put in practise, which the magistrats haue made, that such as speake for them, preach for them, call for them, and write for them, may be no more controlled, &c : and that they may either be mainteined as lawes, or else he and others be deliuered from their duties, in desiring their execution and obeieng them, which they could hitherto neuer be brought to obeie, or like of. And * likewise, where in the verie end of his first treatise he praiseth certeine Lawes as wholsomelie prouided against wilfull law-breakers. Which lawes by him ment, if they be declared in particular, I hope they haue bene sufficientlie spoken vnto alreadie. But if any of them (which he so commendeth) be parts of the Canon law : then he is to be praised for a man of a good nature, which after his furie being ouerpast (which belike hath *Dilucida interualla*) will be so soon reconciled againe with his enimie, whome sometimes he wished to be bwoiled like S. Laurence, or to be burnt (like an heretike) in Smithfeeld. The other and more principall point concerning the declining of the church of England, in ceremonies, gouernement, and discipline from the commandement of Christ, by him and such like surmised; because it containeth a verie grauous accusation, of so famous and great a part of the vniuersall church; and is therefore a matter of great consequence, to haue this church cleared of that slander, which this infamous libeller obiecteth : I haue thought good (for a taste) to trouble the readers a little, with some few and brieue collections (gathered for the most part) by certeine painefull and godlie learned men; yet in some small portion, vpon mine owne slender waiding concerning these matters of externall church-politic; not to any intent (as I may safelie besoze God protest)

to

to derogate from any tolerable order established in these
 eternall matters, by any reformed church, as a thing un-
 lawfull of to be condemned; howsoever peradventure
 some of them may be inconuenient to be vsed: but onelie
 to shew the vanitie of this and other like affected mens as-
 sertions, which By the exact description of the temple, and
 other things about the seruice of God in the old law, and
 because Christ was faithfull in all his fathers household,
 would carrie alwaie in a generalitie; that therefore, there
 is one certeine, perfect, and settled forme of discipline, go-
 uernement, and of externall church-politic recommen-
 ded, and also commanded in scripture vnto vs. For if,
 vpon examination hereof in specialties, it may appeare
 that the ring-leaders of this band doe not onelie differ;
 but also be contrarie one to another in many materi-
 all points of this their platforme, which they neuerthelesse
 would mingle heauen and earth together for, by their
 speeches and writings: then (I hope) all godlie wise men
 will easilie see, that it is but a strong fansie which either all
 or at the least some of them in this behalfe be led by: and
 that without reason they doe exact of vs to yeeld vnto them,
 which are not at any accord or resolution among them-
 selues, nor yet with other learned men. Wherevpon this
 will ensue, and profitablie may be gathered: that as it is
 lawfull for any particular church by the word of God, to
 reteine what forme and circumstances of discipline and
 gouernement in the church, not contrarie to the word of
 God, which (weieing all things therein considerable) shall
 be thought most to tend, then and there, to the building vp
 of the liuelie stones in deád, into one accouplement in
 Christ Iesus his mysticall bodie: so that forme will fall out
 to be most safe, which hath bene most generallie recei-
 ued, and profitablie practised, and hath for it, the approbati-
 on of the purest antiquitie in the primitive church. For it
 is a verie nice and a dangerous scrupulositie, rather than
 to vse that aright, which hath bene once abused; that a man
 should

The soldior
 of Barwike.
 pag. 3.

should go about to deuise, and to laie out new platfomes in church matters, in which of necessitie such difficulties will dailie arise, that can not by any reach of mans wit be forecast, and which will breed not onelie a continuall toyle, but also infinite dangerous innouations, both in the church and common-weale. Now, as concerning the inward gouernement of the church of Christ by the spirit of God working in his children, by the ministerie of the written and reuealed word: and also touching the essentiall points of the outward policie and gouernement of the church, consisting in the true teaching of the word of God, in the due administration of sacraments according to Christes holie institution, in the aduancement and furtherance of vertue, with the beating downe and suppressing of sinne and impietie, and in keeping the church in a quiet vnitie and good order; there is no difference or varietie of opinion amongst vs. Which wholie therefore dooth rest in this point, touching the forme and manner of putting this externall church gouernement in vze and practise. For they affirme, that * Christ hath left, and Comanded as perfect a rule and law for the gouernement of the church (his fathers household) by discipline, as he hath doone by doctrine, which is saie they, by their consistories and presbyteries: and also that the same is perpetuall, and ought so to continue vnto the worlds end, in euerie particular church. Both which we denie, and with all affirme; that no such precise and exact forme of externall gouernment of the church by discipline, as they depaint out, is so much as by any example recommended vnto vs in scripture: but much lesse commanded, as a continuall platfome for euer to be followed. To their first asseueration belong those their speeches, where they call it The presbyterie which God hath appointed: the arke of God: the Lords house, a royall throne for Christ to sit and rule in. And where other of * them tell vs, that The order which they contend for, is that which God hath left, * and that The matters they deale in, are according

* Pag. 19, 20,
239.

* T. C. in epist.
ante lib. 2.
* Admon. 2.
pag. 5.

according to the verie will of almightie God. Inſomuch that
 * they make him Antichriſt, and one who refuseth to haue
 Chriſt to rule ouer him, which reiecteth their Presbyterie
 gouernement. To their ſecond paradox belong theſe and
 ſuch like magnificall elne-long terms: * that It is the euer-
 laſting truth of God, that it is the kingdome of God in
 this world, which onlie hath the promiſe of bleſſing and life
 for euermore: * that this is onelie Gods order, which in
 conſciencie they are forced to ſpeake for, and to uſe: and
 * that we are expreſſie charged to reteine this Segniorie
 till the comming of Chriſt to iudgement, by the words of
 S. Paule in the ſixt chapter of the firſt to Timothie, not-
 withſtanding Caluine doth wholie refer it to the miniſte-
 rie of Timothie. And although our men, who belike ſee fur-
 ther in a miſt, and can find more knots in a ruſh than
 other men, do tell vs of ſuch a neceſſarie perpetuitie & con-
 tinuance of their preſbyteriall gouernement: yet * the
 french churches reformed, could not find any ſuch ſetled
 forme of diſcipline, ſo by ſcripture eſtabliſhed, but that it
 might vpon occaſion be altered. And therefore in the ſhut-
 ting vp of their booke, hereof they ſaie thus: *Ces articles qui*
ſont, &c. Theſe articles which are here contained touching
 the diſcipline, are not ſo ſetled amongſt vs, but that (the
 vnitie of the church ſo requiring) they may be changed.
 And it is a world to ſee & conſider, though not onlie in this
 point but in many other materiall points about this go-
 uernment, our church-wights differ both from other men
 abroad, and amongſt themſelues at home: how yet not-
 withſtanding, they do all in generall impoſtune vs to be-
 lieue them, that there is a preciſe forme, order, rule and law
 of this externall gouernement in the church commanded
 by Chriſt, which no church may ſwarue from, or euer trans-
 forme and alter. Yet Tertullian (as he is alledged by o-
 thers) ſaith thus: Trulie the rule of faith is wholie one, and
 is wholie vnmoueable, and not to be reformed, namelie to
 beleeue in God, &c: this law of faith remaining, now die

D. j.

other

* A libell
 printed in
 forme of a
 table.

* T.C. in epiſt.
 ante. 2. lib.

* Admon. 2.
 pag. 61.

* T.C. in 1. lib.
 pag. 141.

* Art. 23. iit.
 aduerſiſſe-
 ment. en la
 diſcipline
 du France.

other matters of discipline and course of life, doe admit alteration and correction, the grace of God alwaies working and going forward vnto the end. And first, as touching varietie of iudgements about the meanes to establish this gouernement, and their presbyteries, we see that our

* Pag. 93.

* Abstractor saith: The ministers without due authoritie from the magistrate (whereby I hope he vnderstandeth the chiefe magistrate of euerie common-wealth, & not inferior officers, whom, in this case, certeine firebrands of treason, by

^a De iure magistrat. de iure regni.

vindict. con. tyrannos.

^b T.C. pag. 141.

^c Admon. 2. pag. 61.

^d Br.

^a their bookes would arme against their souereigns) ought not to wrest any thing into the gouernement of the church.

But ^b another saith, that among other things this gouernement by presbyteries is such, as for the keeping of them, if

we haue them; & for th' obtaining of them, if we haue them not; he will not saie Our honors, or our commodities and

welth, but our liues ought not to be deare vnto vs. Another ^c saith, they are forced to speake for it, and to vse it. And ^d a

fourth no lesse peremptorie than traitorous (whom I hope they will not allow of) saith: If the prince will not establish

this gouernment, that hir subiects need not to tarrise for hir, but ought t'innouate the gouernment themselues. Diuers

of the French reformers are also too violentlie affected that waie. One of them hath deliuered, ^e that If the prince doe

hinder the building of the church, ^f or doe affect the fear of God: that is (in their sense and meaning) deale in ecclesi-

asticall causes, and hinder the presbyterie: the ^g people may by force of armes resist him. To which end also ^h that

seemeth to be spoken, where it is said, that many a thousand in England desire that platforme: and that great

troubles will come of it, if they be still withstood in their deuises. And if none of those dissoliall practises can be put

in vze, which some of that disposition and affection to those presbyteries haue deuised, by arming inferior officers and

magistrates against their souereignes; then they would

* haue The ministerie t' excommunicate the king. Whereby they would fallie gather by the Feudall law, or of tentures

^e Fran. Inn. pag. 28.

^f Pag. 3.

^g Pag. 28.

^h Admon. 2. pag. 29.

* Of obedience, pa. 59.

(as

(as we call it) * that the vassall is deliuered from his allegiance and oth, of fealtie or homage, which he hath taken to his souereigne lord, if he be once excommunicate.

* *De iure magistr. pag. 66.*

In which respect also * some of them doe affirme, that though popes taking vpon them to depose princes for sundrie enormities, did vsurpe vnto themselues an vnlawfull authoritie: yet the reason that moued them so to doe, was honest

* *Of obedience, pag. 52. 53.*

and iust, and meet to be executed by the bodie or state of the common-weale; and yet forsooth these be especiall friends and fauourers of the Quænes prerogatiue. But touching that place there alledged, out of the second booke *Feudorum, tit. 28. S. 1*: it can no waie be vnderstood of an absolute and souereigne prince, that holdeth not his kingdom ouer, of anie mortall man, but of God alone, no not in those countries and territories, where otherwise the Feudall law in meane lords hath place. First, because the Vassall or tenant (as we call him) being deliuered of his fealtie, seruices and tenancie, and the said seruices being not to be extinguished in the Vassall, but for the lords default to be forfeited to another: it cannot be vnderstood of a souereigne lord, who hath no superiour but God, to take the forfeiture that is growne against him. Secondarily, the circumstances of the law doe declare this to be vnderstood of a meane lord, and not of the king himselfe: The vassall (saith that law) is not bound to helpe or to doe seruice to his lord, being excommunicate, or banished by the king, but is in the meane time loosed from his oth of fealtie, till he be restored by the church or the king. Again, all this Feudall law, being a customarie and vntowritten law, and by the tolerance of kings, and other souereigne lords ouer warlike nations, suffered to growe in vse, for the rewarde and encouragement of those that had valiantlie demeaned themselues in their warres: it cannot be credible, that the king would permit such a custome to preuaile euen against himselfe, whereby he should reteine his owne subiects no longer in their allegiance, than it should

D.ij.

please

please another man. Moreover this law had his beginning and speciall increase amongst the Longobards, and other such Martiall people, before they were converted to Christianitie from their Gentilisme: which maketh me to thinke, that this point of excommunication was added afterward by the compilers of the Feudall law, according to the vse of their times for the paritie and equalitie of reason, that seemed to be in Banishing with Excommunication. But most stronglie is this sense, which I haue giuen, confirmed by the testimonie of verie good historiographers.

* *Ottob. Eri-*
singer. lib. 6.
cap. 35. chro.

* *Chron. Hir-*
saug. ca. 14.

* *Sigebertus*
monachus
Gemblacen.

* I doo read and read ouer againe (saith one) the acts of Roman kings and emperors, and I can no where find that any of them was euer excommunicated by the Bishop of Rome, till this William king of England was excommunicated by Alexander the second, about the yeare of our Lord, 1066. And Iohannes Trittenius *writing of the emperour Henrie the fourth, saith thus;* For which pertinacie he was excommunicated by Gregorie the seventh, and by a synodall decree of Bishops was deposed from the empire, although he cared not for it. And he is the first of all emperors, that was deposed by the pope. And another in his *chronicles of the yeare 1088. calleth it in a maner an heresie, then scarce sproung vp, that Presbyteri, priests or elders if you will, should take vpon them to release the subiects of a king from their oth and allegiance.* Odo * (saith he) being first a Cluniacke monke, and after Bishop of Hostia, was made pope against the emperour and Guibertus. Heerevpon offences in the church, and turmoiles of dissention in the common-weale did increase, whiles one disagreed from another, that is, the kingdome from the priesthood. Trulie (if I may speake with good leaue of those, who be good men) this plaine noueltie, I had almost said heresie, was not yet come abroad into the world: that his priests, which said thus by a king, *Apostare et regnare facit hypocritam, propter peccata populi*, that they I saie, should teach the people that they owe no seruice to euill kings; and that al-

though

though they had yeelded vnto them the oth of fealtie, yet they did not owe vnto them any allegiance: and that those should not be accompted periured, which stood euill affected towards their king: yea, that those which should obey the king, should be reputed excommunicate, and that he which attempted anie thing against him, should be absolved from the guilt of impietic and periurie: *Hæc Sigebertus.*

Which notable testimonie proceeding euen from a monke deuoted to that Sex, and in the great ignorance of those times, which otherwise did possesse them: I could not but oppose to the fanaticall spirits and traitorous allegations, both of these dangerous innouators, and of the rabidous papists: which in this point hath borrowed weapons of them, and doe barke in the same key, dailie from beyond the seas, against their Soueraigne, whose kingdome they would inthral to be holden but at the popes, as the other would haue it at the chæfe inferiour magistrats, the peoples or presbyteries deuotion. As touching secondarie meanes for the better establisshing and furnishing of their presbyteriall gouernement, there is likewise varietie of opinion. For our laie reformers for the most part doe wish all ecclesiasticall persons to be deuested of their lands and other hereditaments, and like cast and forwoyne seruants, to be put to their pension: that vpon such alteration, the offalls, downefalls, and windfalls, may fall to their share, or at least, be a muffle for them to scramble for. Which deuise seemeth to haue bene pointed at, by the discipline of France, * where they saie: No minister shall possesse anie hereditament by title of his ministerie: but if a pension or some parcell thereof be assigned out of any possession, rent, or reuenue, it shall be wholie in the administration of the deacons, or of other persons therevnto deputed by the church, at whose hands the ministers shall receiue their pension. But the chæfe of our ecclesiasticall innouators, would on the contrarie side, haue the prince to relinquish his first fruits, tenths, and impropriations: and all Noble

* Art. 35. de
la discipline
de France.

D. iij.

men

men and gentlemen, their impropriations and patronages: and the Bishops with all cathedrall and collegiate churches, to be bereaued of all their temporall and ecclesiasticall possessions whatsoever, to supplie the wants that may happen at the creating of their petit Parlements and Presbyteries. To which deuise, bicause they foresée such of the laitie will as hardlie as anie other be induced to agree, being deafe of that side the head, holwoeuer they seemed to like the plat, so long as it reached no further than to Bishops and cathedrall churches: they doo therefore as bitterly bite at them as at others, for their ^a backwardnesse in this pretended necessarie seruice. Whiles they heare vs speake (saith no little one of them in reputation) against Bishops and cathedrall churches, it tickleth their eares, looking for the like prey that they had before of monasteries: yea they haue in their hearts deuoured already their churches inheritance. ^b And againe, They could be content to crucifie Christ, so they might haue his garments. ^c And further, They care not for religiō, so they may get the spoile. And yet ^d againe, The reuenues of the church are wasted in courtlie wantoness & brauerie, bestowed vpon noblemens seruants, and so consumed with most sacrilegious impudencie and boldnes. Further ^e yet, They doo not onelie giue nothing to the church, but such liuings, as others haue godlie bestowed, most wickedlie they deteine and with-hold from hir. To this ^f he addeth: That our age is full of spoiling soldiers, and of wicked Dionysians, who will rob Christ of his golden coate, as neither fit for him in winter, nor in summer. And another chiefe man among them ^g saith of such: They are coruorants, and seek to fill the bottomlesse sackes of their greedie appetites. And againe, They doo yall after a prey, and would thereby to their perpetuall shame purchase a feild of blood. ^h Yea ⁱ a third also of them saith; It is no better than sacrilege and spoiling of God, to keepe backe any waie the prouision that hath beene made for the ministerie: and the curse of

^a *Disciplina ecclesi.* fol. 94.

^b *Ibidem.*

^c *Ibidem.*

^d *Ibid.* fol. 97.

^e *Ibid.* fol. 87.

^f *Ibid.* fol. 95.

^g *T.C.* 75.

^h *Admon.* 2.

ⁱ *pag.* 13.

God threatned by Malachie to those that spoiled the Le-
 uites then, belongeth & will light vpon our spoilers now,
 and vpon them in whose hands it is to redresse it, if they
 doe it not. Whereby we may see that our ecclesiasticall in-
 novators are not so scrupulous as they in France, or as our
 laie reformers seeme to be: but that they could be content
 to take paines with those lands, tieths, and other heredita-
 ments, and to aduenture on them, though they haue bene
 so abused to the maintenance of superstition and idolatric
 in the church: yea, and to reteine them in title, to the better
 support of their Septemuirall or decemuirall senat in eue-
 rie parish, scarselie counting the other mens offer of a
 pension, worth a single gramercie. Now let vs come to
 some of their resolutions, wherein they deliuer to vs their
 minds, when and by whome this their presbyteriall church
 gouernement by Seniors, as here they are called, or by An-
 ciens (as they call them in France) was commanded or
 practised. For seeing they doe both alledge such a necessitie
 thereof, that some of them haue not doubted to make it a
 third essentiall point of a true church, whereby they must
 flatlie confesse to follow, that in or since Christs and the
 apostles times, euen till their owne age, there hath bene
 no true church, seeing it is assured, that neither they nor any
 man in the world is able either by scripture or testimonie
 of antiquitie to shew forth such their laie presbyterie,
 priests, elders, seniors, or anciens as they speake of: & also
 to beautifie & aduance it vp to heauen, with glorious titles.
 Surely their endenour will not be worth a single haire
 of bodkin, if they cannot bring the deuise and creation of
 it, as high as Christs time at the least. Therefore one * of
 the chiefe of them, doth fetch it from the Jewish *סוודא קדוה*,
 and out of the Talmud. But if this senate and set councill
 among the Iewes, be a type vnto their presbyteries: then
 must they handle both the swords, which they would seeme
 to mislike in others. For one * of Geneua latelie writing
De politia Iudaica (agréable herein with the most both old

* T.C. pa. 187.

* Bonaventura
de politia
Iuda. ca. 13.

D. iij.

and

De Dangus
ca. 10. lib. 2.
Isag. 2. par.

** De Polis.*
eccl. & reip.

** Calui. Hay-*
monia in 18.
Matth.

and new wryters) affirmeth, that they had the hearing and decision aswell of ciuill as of ecclesiasticall causes. Then shall their new church platforme be also conuincd not to be from heauen, but of men: for Caluine affirmeth, that the Iewish senat was but a politike constitution ordeined by them after their returne from Babylon. But our men doe tell vs that Christ did establishe and command the like senat in his church, when in the 18. of Matth. he said, *Dic ecclesie*, Tell the church, that is (say they) the presbyterie. But Musculus is of another mind, who thinketh all the congregation thereby to be vnderstood, according to that time wherein Christ spake it, when as the church wanted a goodlie and faithfull magistrate. And of the same opinion, that the whole congregation aswell people as ministers or elders ought there to be vnderstood, are * certeine reformers in France. And if Christ did by those words establishe and command their presbyteries, then were the apostles verie slowe and negligent in putting them in practice: for * Caluine testifieth, that neither in Christes time, nor in two and twentie yeares after, these presbyteries were erected. And if Christ did speake in that maner to th' Apostles and disciples, as of a thing well knowne vnto them, by reason of the Iewish *συνεδριον* in vse amongst them: then will it follow, that as they had but one such for the whole nation, seated at Ierusalem: so one presbyterie will suffice for a whole realme. Also if Christ had then erected that their presbyterie and church gouernement, which they fanisie: assuredlie the apostles would not, nor should not, both all Christes time and a yeare after, haue vsurped the office of deacons being thought by our men to be not onelie a necessarie but a distinct office from the pastors and preachers in the presbyteriall gouernement: yea, they would not haue relied vpon that reason onelie, for creating of deacons (because thereby they were drawne from a more necessary function of preaching:) but would haue also auouched the commandement of Christ, for such seuerall offices in the gouern

gouvernement of the church, if he had giuen out any such direction, as is now imagined. And surelie, it cannot be that either Christ or his apostles did command any such consistorie, and presbyteriall gouernement as they talke of; because, if it be a matter of such perpetuitie or importance, and of that sort as they would enforce; then could it not haue had so obscure and base a birth, that neither scripture, father, nor councell should leaue in memorie, by whome, where, or when it was first erected, and put in practise. And else we must yeld, that all the martyrs and holie fathers in the time of the apostles, and so downewards, were palpably ignorant of such a perfect, precise, and necessarie point of a true church: or at the least were verie negligent and enuious to posteritie, that would not so much as vouchsafe to deliuer it downe from hand to hand by practise, as the traditions and unwritten verities are pretended by the papists to haue bene. In so much that if you aske * some of them, in what part of scripture these their lay elders & seniors be commanded, they can answer redilie, That all things are not expressed in scripture: yet our admonitors thinke they can proue all these matters discreetly by the word of God. The like varietie is amongst them, in what part of scripture their Laie seniors are spoken of. For some of our men thinke, they haue found them in the 14. of the Acts, ver. 23. But * other better learned than they, doe contend, that by the word *Presbyteri* there vsed, ministers and preachers be vnderstood. Likewise our men saie, that the first to Timothie, cap. 5. ver. 17. where it is said: The presbyters or elders that rule well, are worthy of double honor, doth sufficientlie proue the office of their seniors onelie to consist in ruling, and not in preaching. But a * great learned man (yet a fauourer of that platforme) saith: These elders did both rule and preach. In like manner * some of our reformers doe send vs for the description of the qualities of these seniors which they dreame of, vnto the 1. of Timothie, cap. 3. from the 8. ver. vnto the 14. where

* Ecclesiast.
discip. pag.
121.

* Calvinus.

* Beza.

* Discip. ec-
clesi. fol. 217.

14. where in deed the qualities required in deacons are described: yet * other of our owne also, doe referre vs for the properties required in them, to the first verse thereof, and so to the eight, where the properties of a Bishop are described. And where S. Paule saith, *Aduersus presbyterum*, &c. Against a priest or elder receiue no accusation but vpon two or three witnesses: that * is (saith the admonitioner) against laie seniors or gouernors: yet * others of the chiefe fauourers of them, doe confesse the place is meant of the ministers of the word. * And others doe fetch them from the word *Gouernements*, 1. Cor. 14. And as they differ amongst themselues, in what part of scriptures to find their seniors or elders: so they can not agree of the immediate *Genus*, or generall word, which containeth them. For some vse this diuision: Of deacons, some are elders or gouernors, and some are such as prouide for the poore. Other saie: Of Bishops, some are ministers, & some are seniors. And againe: Of elders, some must teach, & some must obey rule, and others both rule and teach. Some ^a of them also doe assure themselues, that the name of elders is neuer imparted to deacons in the scripture: ^b yet others are bold to giue this rule, that all ecclesiasticall officers, of what calling soeuer, are called in the new testament Elders or Seniors. Of which iudgement also ^c Beza seemeth to be. So that we see, if laie seniors be any where to be found in scripture, some of them will start them vp in one place or other: either by the name of *Presbyteri*, *Diaconi*, *Episcopi*, or *πρεσβυτεροι*. These their seniors also, aswell as the rest of ecclesiasticall officers by their platforme and deuise, must be found of the goods and reuenues of the church: for the which purpose, and for better supplie of them, is that their intention of diuiding the whole realme afresh into parishes, by uniting two, three, or more together, and the lateng downe of all patronages, and adioining of all Bishops and cathedrall churches reuenues, and of all impropriations vnto them. And to that end also they doe alledge, that he

* Admon. 2.

pag. 46.

* Caluinus.

* Eglise des
estrangers à
Londres. An.
1550.* Disciplee-
cles. fol. 123.
b A written
booke not
published.
fol. 79.

* In 14. Act.

he which serueth at the altar, must liue of the altar. But how can this stand with * that aduise which is giuen, for * *Beza in præfat confess. Heluet.* the choosing of Princes & Noble men into the seniozie, or with the practise thereof in some churches, where Noble men did undertake that office: Shall we thinke it meet, that the reuenues of the church should be allotted out to their maintenance according to their degrees: Trulie, either they must haue short commons, or else their churches and seuerall parishes must content themselues without many such Seniors. Now let vs also brieuely consider, what they teach concerning the persons, that are to serue and to belong to this presbyteriall gouernment. Our men in their booke doe attribute the chiefest degree of dignitie in their ecclesiasticall kingdome, to the pastor; the next to the doctor: the elders, whether knights, lords, earles, dukes, or princes, must content themselues to be reckoned in the third place; and the deacons in the fourth. *¶* Now, the discipline of France suffereth the matter of preheminence betwixt deacons and anciens, to be wholly vndercided; where * they saie: The deacons and anciens may not pretend any preheminence or superioritie, the one aboue the other. *¶* Now it must needs be intended, that the pastor is aboue the deacon: whereby it will follow, seeing they doe wey the deacons and anciens alike, that the pastor is to be preferred afore them both: which will no doubt be a verie seemelie matter, where he is preferred in commission aboue his souereigne Lord. *¶* Yet * at Saint Gallen in Switzerland, where ministers haue an ordinarie authoritie with the rest in the Presbyterie, it is thought more agreeable with scripture, that a mere laie man should be chiefe, and so doe they vse it. Againe, the consistories of Zurike and Basil doe wholly consist of laie men, yet certeine Diuines and Ministers are ioined as assistants to them. But at Schaphausen, ministers are not so much as called to be assistants. But the reformed churches in France doe clearly determine, that the ministers are, and ought to be Præfidents

* *Art. 6. des Anciens & Diaques en la discipline de France.*

* *Simlerus de repub. Heluet. fol. 172.*

* *Simlerus ibid. fol. 148.*

* *Art. 4. du
Consistoire, en
la discipl. de
France. &
Dangus 2.
parie. Isago.
li. 2. cap. 20.
* Art. 5. en la
discipl. de
France.*

fidents and chiefe in their * consistories. For they say: The ministers of the word of God, and the anciens make the consistorie of the church, ouer which the said ministers ought to be praesidents. *Notwithstanding in the verie next article they set downe:* * that A ciuill magistrate may be called to the charge of an ancien in the consistorie, so that the exercise of the one shall not hinder the exercise of the other, nor shall be preiudiciall to the church. *Whereby may necessarilie be concluded, that they thinke it requisite, the pastor in the consistorie to take place before the prince, if he be vouchsafed that worship, as to be called amongst them. Yet by their leaues, they provide not herein so fullie for the pastors souereigntie in that gouernement as they wene, if matters come to be decided by most voices. For it can not be credible, but that the prince or any Nobleman, or great Gentleman shall easilie be able, to win his fellow-assistants in consistorie, being in all other respects farre his inferiours, and many waies by all likelihood deuoted vnto him, to be of his iudgement, whensoever it shall happen that the Pastor and he doe varie in opinion. For I haue not red that they mind in all matters to make the Pastor onelie of the Quorum. And no maruell though they thus debase Princes, by making them range with the rest of their Seniors and Church-gouernors: considering how much soeuer they sarre in other points, yet they iump in this: to debar princes of that right of gouernement in matters and ouer persons ecclesiasticall, which the word of God, and all the examples of godlie kings in Iuda doth asford vnto them. Therefore one of them as in great scoyne most slanderouslie, & vntrulie ^a saith: That for the princes pleasure, poperie is turned into policie. And afterward ^b moze traitorouslie, If the prince with Gedeon, Nadab, Abihu, Vzsa, Vziah, and Saule, will intermedle without Gods warrant, as she hath doone, pag. 152, lin. 20. with matters of religion. pag. 157, lin. 4. with Gods matters, pag. 141, lin. 21. she must thinke it no iniurie to be disobeyed.*

^a *Soldior of
Bartwike.
pag. 8.
^b Ibidem.*

obeied. pag. 143, line. 13. Agréable to which, though not so round and peremptorie, is that milike which another of them hath hereof: * that hir Maiestie hath preheminence and cheefe authoritie in determining of church causes, and making ecclesiasticall orders and ceremonies: and likewise * that hir Maiestie in counsels for church matters, is the cheefe, who should be onelie there an assistant. A third of them also thinketh it inconuenient, * that without hir Maiesties assent, ecclesiasticall persons cannot make orders or ceremonies. In which respect the ^a other before alledged, thinketh it expedient, that hir Maiestie should be of some particular parish, and so in subiection to the censures of a presbyterie, either to be suspended or excommunicated, as occasion shall require.

Therefore a fourth of them prescribeth generallie to princes, and all other whome soeuer, if they be not of their presbyterie, ^b thus: Of all these in a maner this is the onelie dutie, that they suffer themselves easilie and willinglie to be ruled and gouerned by others, whome God hath set ouer them. But more particularlie ^c else-where speaking of kings and magistrats, he saith: These no lesse than the rest must obey and yeeld to the iust authoritie of the ecclesiasticall magistrats. Therefore another besides all these saith, that not onelie ^d The consistorie may and ought to admonish the magistrate, which is negligent in punishing vice: but ^e also may vpon knowledge of the cause taken, excommunicate euen the cheefe magistrate, vnto the which he ought to submit himselfe. And therefore he saith, that which is brought as out of Augustine, that a prince may not be excommunicated: In additio. ad. 3. 2. Thome, doth not hinder this, bicause it is false. And least this dutie, though it be verie rigoroullie exacted, should but slenderlie be performed, one of them ^f also saith: Princes must remember to subiect themselves to the church, and to submit their scepters, to throwe downe their crownes before the church, yea, to licke the dust of the feet of the church. **Meaning**

* T.C. pag. 157, 161.

* T.C. pa. 161

* Admo. 2.

* T.C.

^b Ecclesiast. discipl. pag. 142.

^c 1bi. pa. 285.

^d Dancm. par. 2. Isag. li. 2. cap. 62.

^e 1bid. ca. 67.

* T.C. pa. 645

* Br.

* Pag.92.

* T. C.

* Admo. 2.
pag.8.57.* Art. 24. de
la discipline
du France.* Danens
par. 2. 1/2 ag.
li. 2. cap. 17.

ning (as appeareth) by the name of the Church, their presbyterie. And * another (whome I would not deigne to speake of, but that he agreeth with them herein) saith: Kings must be bound with chaines, and the nobles with fetters of yron: meaning by the authoritie of the eldership or presbyterie. And againe, They must obeie the scepter (that is to saie the gouernement of Christ in their elderships) if they be christians, which scepter subdueth people vnto vs, and the nations vnder our feet. Moreover, speaking of hir Maiesties souereigntie in causes ecclesiasticall he saith: The head Christ is pulled downe, and the hand of the magistrate is set vp. But as we haue now seene their ioint accord, in taking from princes, and throtting them downe from that power in ecclesiasticall gouernement, wherewithall God hath adorneed them: so let vs consider how much, naie how little some of them doe attribute vnto princes in this behalfe. For although our Abstractor, who can temporise and plaie the part of a politike proctor of Presbyterie patrones, ^a doth saie, That hir Maiestie is a souereigne, a sole, and a lawfull gouernesse in all causes, and ouer all persons ecclesiasticall: yet other of them (whome he loues and likes full well I dare saie) doe ^b giue authoritie vnto princes, to make ecclesiasticall decrees, onlie when there is no lawfull ministration. Notwithstanding others of them ^c thinke, they may yeeld no further power vnto princes, than to bind them to the restoring of their ecclesiasticall presbyteries: that after that once performed, they themselves may make by their church-orders; according vnto which the reformed churches in France doe attribute no more to the ciuill magistrate herein, but ^d that Where the ministers doe faile in dutie, there he must endeouour to cause them to be admonished according to the order of the discipline: that is, by the Consistories, the Conferences and Synods, either Prouinciall or Nationall. Therefore ^e one of them saith, that This is the interest which good and faithfull magistrates haue, that if they be present at the first nomination

mination and election of ecclesiasticall persons, yet they ought not to rule there. For they may not nominate to the people or senare ecclesiasticall, the persons to be chosen. But ^a in another place he confesseth, that in old time the kings consent was required to be had unto the Bishop which was chosen, Bernard. *epist.* 170. & c. Reatina. *dist.* 63. before he was presented to the people. And in the same place he addeth: That when the Bishops See is void, the prince ought not to enioy the fruits of the Bishoprike. Which (saith he) though by the royall prerogatiue it be obserued in France. Yet Bernard. *epist.* 224. dooth iustlie find fault with it, because the said fruits might better be disposed of, to the nourishment of the poore. Yet one of our owne men dealeth a little more liberallie, and saith: ^b Herein there is something proper and peculiar to the magistrats, that they by their authoritie may order the state of the church at first, and so preserue it being once ordered, according to Gods will. So that their meaning seemeth to be this, that the prince must lend hir authoritie, for the establisshing of these their deuises, and see that no man interrupt them in their gouernement from time to time, and so surcease, and submit hir owne Highnesse and hir scepter, in all church matters to be ruled by the substantiall honest men, and the minister of the parish, where it shall happen hir Maiestie for the time to remaine. For otherwise ^c one of the chiefe of them is peremptorie and resolute, that the prince hath not, nor ought to haue any ordinarie authoritie, for the making, appointing, or determining of any ecclesiasticall causes, orders, or ceremonies. Whereby it may appeare, that this whole sute of them doe agree herein iust with the Papists: who doe attribute unto christian princes Power of fact, but not of law: and authoritie to Promote and set forward, but not To appoint or intermeddle with making of ecclesiasticall orders. And yet forsooth, they doe tell vs in great earnest, ^d that There is nothing in their bookes (written of this matter)

^a Ibid. ca. 19.^b Disciplina
ecclesiast.^c T. C. 2. repl.
pag. 165.^d Admon.
pag. 3.

matter) that should offend any, which either be, or would seeme to be godlie. Now, about those that are to be imployed in this new kind of church gouernement, there are diuerse opinions: for the Discipline of France doth^a mention certaine Regents and also Professors in diuinitie, which may be called, when a question about decision of any point of doctrine doth arise: neither of which persons or offices, are mentioned in anie of our platformes, that I remember. Againe, our^b men doe make ministers to be of two sorts, the one pastors, and the other doctors; so that both these two must concur, as necessarie members, wherevpon with the elders and deacons, their presbyterie must be raised: but^c the Discipline of France maketh not a distinct person of the pastor from the doctor, but noteth them as two seuerall properties incident according to the doctrine of S.Paule, to be in a minister and preacher of the word. And that is also the iudgement of Bullinger vpon the 4. to the Ephesians. Also our reformers make the doctor to be the second man in their presbyterie: yet^d Bertrand affirmeth, he ought to haue no place there, except he be called by the rest as an Assistant. ^e Likewise our men with vs doe hold, that deacons are to be placed in their consistories and presbyteries: but the^f said Bertrand assureth himselfe, they haue no place of dutie in that assemblie. And such also is the practise of the church of France,^g where they decreae thus: The ministers of the word of God, and the anciens doe make the consistorie of the church, ouer which the said ministers ought to be praesidents: and yet neuertheless the deacons may giue assistance to the consistorie, for aduise vnto it: so that they allow them a voice consultatiue, but not decisive, in their church gouernement. Furthermore, our innouators will needs haue the deacons tied to the prouision for the poore, so that without great impietie such a function in them may not by any other deuise whatsoeuer, be altered: yet^h in the reformed church of Zurike, certaine late men, without any imposition

^a Des professeurs en la discipl. de France.

^b Admon. I. pag. 9.

^c Du Baptesme art. 3. la discipl. de France,

^d De eccles. cap. 14.

^e Admon. I. pag. 9. & 11.
^f Ibidem.

^g Du consistorie art. 4. de discipl. de France.

^h Simlerus. fol. 752.

tion of hands, are monethlie chosen for that purpose, and haue the managing of the church stocke. ^a Some of the principall inforcers of this new gouernment, will needs haue an order of widowes in their church plat. And ^b another of their fauourers though he setteth downe no necessity thereof, yet he thinketh it verie commodious to be retained: yet ^c other of them not meanelie accompted of, would persuaide vs (as he may herein easilie doe) that they neither are necessarie now, nor conuenient. Likewise our men doe tell vs, that their elders or seniors once chosen, are not (but vpon some vrgent occasion) to be remoued out of the presbyterie: yet ^d the church at Berna holdeth it expedient, that none doe continue in that function aboue halfe a yeare, except he be newlie elected. And the discipline set forth by the church of France doth ^e testifie, that The office of ancients and deacons (as they vse it) at this present is not perpetuall: neuerthelesse they may not depart from their charges, without leaue of their churches. And ^f another of them saith, that Although it doth not appeare what was done in this behalfe in the church, when the apostles liued, and albeit it be euident, that in the church next to the apostles times presbyteri and deacons were chosen during life: yet in their church, pastors onelie are chosen for the most part for the terme of their life; but deacons and presbyteri or seniors, after a certeine time expired, doe go forth of their office, and are honestlie dismissed. Further more ^g our men doe constantlie affirme, that this their desired presbyterie ought to be erected in euerie parish: but another that did ^h partlie like of such a reformation, thinketh it sufficient to haue one such consistorie established in euerie shire or diocesse. And ⁱ Danæus saith, that in old time such presbyteries were not erected in euerie seuerall parish, but in great and populous cities. Which like course also somethere to haue bene practised, manie doe know, and can testifie. Yea, and of the other side we doe read, that in some one particular ^k church, two seuerall

P. j.

consisto

^a T.C. pa. 192^b Dan. part. 2. Isagog. lib. 2. ca. 11.^c Eccles. discipl. pag. 219^d Simlerus, fol. 157.^e Des ancients & deacons art. 7. la discipl. de France.^f Dane. part. 2. Isagog. lib. 2. cap. 22.^g T.C.^h Bucer.ⁱ Dane. part. 2. Isagog. lib. 2. ca. 10.^k Du consistorie. art. 8. la

^a Admon. 2.
pag. 14. & 31.

^b La discipl.
France, art. 5.
15.

^c Des Syno-
des natio-
naux art. 5.
la discipl. de
France.

^d Admon. 2.
pag. 14.

^e La discipl.
de France,
art. 5.

consistories or counells haue bene established, till vpon inconueniences arising, that deuise was countermanded, and both reduced into one presbyterie: those counells which were dissolued, being permitted (vpon request made) to come and consult with the consistorie. But now I will passe on, to touch as briefly as I can, some of their iudgements, touching such matters as are to be handled in their presbyteries, consisting in election and abdication of church-officers: in execution of the censures of the church, and in decision of matters touching maners or doctrine, and making of lawes, orders, and ceremonies. Now ^a by the platforme set downe by our reformers, if anie partie stand discontented with a matter passed in the presbyterie, then there lieth an appellation to the next Conference (which ^b consisteth, as the French discipline describeth, of six ministers at the least :) from thence to a Prouinciall counsell, and then to a Nationall; and if it can not be finished, and be also of great importance, it may be againe remoued to a Generall counsell. But the discipline of France dooth not thinke it meet that any cause should be brought so far: and therefore ^c decideth that the Nationall Synod may decide definitiuely, all ecclesiasticall matters whatsoeuer. And as concerning the first point, although it be most euident, that no one vniforme manner of electing of ecclesiasticall officers was vsed by the Apostles, nor commanded to the church afterwards, so that the church is left at libertie to practise that forme herein, which shall seeme most conuenient, considering the circumstances of time, persons, & place: yet ^d our Innouators doe appoint necessarilie, the choise and prouiding of a pastor or doctor, to rest in the next Conference, whom (being presented vnto them) the people are of necessitie to like and allow of, except there may be sufficient matter objected against them. But the discipline of France, though ^e it alloweuen of such ministers (so they will subscribe to the articles of faith & the booke of discipline) as haue bene chosen by the whole

whole multitude, and of those ministers also that were before that time chosen by the consistorie, and by one onelie minister: yet they ⁸ set downe three other ordinarie formes to be obserued of choosing their ministers, all differing from our mens platforme. One is, by two or three ministers, and the consistorie: another is by the whole Conference where anie such is established with the Consistorie or Presbyterie of the place: and the third (as most to be wished where it may be had) is by a prouinciall councell. But our Abstractor varieth in conceit from all these, and picketh nearest to the platforme of Th' Anabaptists, who thinke no calling into the ministerie to be according to the will of God, but that which is done by the whole multitude of that congregation, where he is to serue. And therefore he saith, that By the statute law of this land, by canon law, yea and by Gods ordinance in the apostles, when the deacons were chosen; the people of the place destitute of a pastor, must be present, and giue their consent at the choise of their minister: that they must giue their consents as hauing a principall interest in the action, and must not onelie be eie-witnesses and eare-witnesses to the Bishops vpriht dealing, but also must be agents and cohelpers themselues: that they haue in the choise, allowance, and appointment of their minister, a speciall interest and prerogatiue, in so much that he which thinketh this may receiue by any a counterbuffe, he (for his part) holdeth him accursed, and so vtterlie vnworthie the name of a disciple. By which peremptorie and definitiue doome, he hath giuen a buffe and a counterbuffe indeed, not onelie to this church of England, but to all our new reformers here, to the French church, and almost to all the reformed churches in christendome: whereof verie few or none (that I can read of) doe permit (after they be once established) the election of the minister vnto the whole multitude; for the which cause they must remaine vnder his curse, till it shall please him of his owne mere motion, without anie sute of theirs, to release

¹ Ibid. art. 4.² Ibidem.³ Abstract.

pa. 60. 61. 62.

* *Dane. par. 2* lease them againe. For some * other of the best learned of
Isag. li. ca. 17. that sort, will not haue the magistrate or people to haue a-
 nie thing to doe in the election, till it come to the second
 election or diiudication by the magistrate and the people,
 * *Ibid. cap. 20.* wherein, * their silence (he saith) without anie other signe or
 token, shall be holden for a sufficient approbation: * and
 * *Ibid. cap. 19.* although he thinketh it in some respects not to be vsed, that
 two or three should be propounded to the church for the void
 place, but rather one alone, contrarie indeed to the true na-
 ture of an election, as he himselfe obserueth: * yet bicause
Ibid. cap. 20. some was of opinion, that in all elections, we were to vse
 lots, he refuseth their iudgement, and saith, that this is ne-
 uer to be vsed, but when there is such an equalitie of all
 sides, that otherwise it cannot be iudged, which of manie
 ought to be preferred. Furthermore, our reformers by the
 drift of their speeches deliuered in their bookes, doe seeme
 for the most part to attribute the removing of the pastor,
 or of any other church-officer to the presbyterie: but * the
 Discipline of France adioineth to the Consistorie in this
 action, the next Conference; or vpon want thereof, two o-
 ther pastors not suspected. Maie themselves doe establish a
 difference according to the diuersitie of times, in their
 owne elections. For they saie, that In those places where
 their order is not yet established, both the deacons and
 * *Des anciens & diacres*
art. 1. la discipl.
de France. anciens shall be chosen by the common voices of the
 people, together with their pastor: but where the order is
 established, there they are to be chosen by the Consistorie
 together with their minister. By which words also it se-
 meth to me, that in elections of ecclesiasticall officers, they
 doe yeeld to their ministers a negative voice against all
 the rest. Again, Our reformers doe earnestlie tell vs, that
 the people are to giue their consent in all their elections
 and censures: but * some in France that like of that go-
 * *La confuta-*
tion de la disc.
ecclesiast. uernement, doe hold that it is not requisit. Again it is an
 vsuall practise among some of our millicers, vpon any dis-
 contentment, or peraduenture vpon delight in some other
 trade

trade of secular life, to picke a quarell to giue ouer their calling: insomuch that some of them haue deliuered it as sound doctrine, that they might as lawfullie as any other merchants, change their copie, and betake themselves to a secular function. But this is vtterlie condemned by the discipline of France, where they saie * that Those which be once chosen to the ministerie of the word, ought to vnderstand, that they are chosen to be ministers their whole life through, if they be not thereof discharged lawfullie, vpon good reasons and considerations; yea, and that by a prouinciall councill. And as touching such as forsake their ministerie, they shall be finallie excommunicate by the prouinciall synod, if they repent not. Now, touching the insisting of ecclesiasticall censures, there is also some varietie of iudgement. Our men (as you haue heard) require a consent or approbation of the people to such censures Ecclesiasticall, as are to be imposed; whereas the discipline of France * requireth no such matter, but appointeth three publike denuntiations by authoritie of the presbyterie to be made concerning obstinate offenders, in the face of the church, to see whether thereby they may be called back to repentance, before excommunication: which at the last, if the parties do not submit themselves, is to be pronounced by the minister, after the said three publike intimations. Likewise, where vpon speciall occasion some minister is to be declared a Schismaticke, by that discipline, none other are to * intermeddle therein, but either the Conference, or for want thereof, three or foure other ministers of the next churches, together with the Anciens or Seniors of the said churches.ouertheless, it is verie euident by * scripture, that S. Paule being absent did decree, that the incestuous person should be excommunicate, hauing thereto neither publike denuntiation afoze, nor yet consent of anie other minister, senior, or deacon. In * like maner did he alone excommunicate Alexander and Hymenæus. But the Abstractor both vtterlie against our owne Reformers, and

* La discipl. de France. ar. 10.

* Des delinquans, &c. art. 1. la discipl. de France.

* Art. 5. la discipl. de France.

* 1. ad Cor. 5

* 1. ad Tim. 1

Pag. 437.

Pag. 33.

the discipline of the French church saith, that * there is a Discipline commanded by the Lord, and in truth established by the lawes of hir Highnesse empire: which* is, That euerie minister may as well admonish, denounce, and excommunicate offenders within his charge, as a Bishop may within his diocesse. So that he attributeth the whole authoritie of the presbyterie in matters of censure to the minister of euerie parish: and the power giuen by others vnto the Conferences and Synods prouinciall, he yeeldeth (as it seemeth) vnto the Bishop of the Diocesse. There remaineth yet a little to be touched concerning as well the decision of all doubts, which may arise touching doctrine or maners: as also the making and establishing of lawes, orders, and ceremonies. For doubts arising vpon matter of doctrine, some of our plat-laters doe make it, as a thing incident to euerie presbyterie: yet * other of them doe restrain it vnto the decision of a Conference consisting of Ministers. And* the discipline of France dooth referre it both to the Conferences, and the Synods determination, yet so that the Ministers and Professors in diuinitie must onelie haue voices decisiue, though the Anciens or Seniors may haue voices consultatiue, and of aduise. Neither is their agreement any better, touching particular decisions of some points of doctrine. For some of them doe mislike the orders of our church so farre, that they thinke they may not lawfullie come to our ordinarie seruice, nor communicate with vs, for want of their (dreamed of) reformation: but others, though verie well disposed, yet scrupulouslie affected in matters of no moment, doe * plainelie testifie vnder their hands, that this is schismaticall, and that no man ought to sequester himselfe from the publike assemblies, in respect of anie surmised inconueniencies, in our publike liturgie prescribed. Againe, some are of opinion (as elsewhere before is alledged) that Baptisme ministered by any not lawfullie called therevnto, is wholie void: but our Abstractor, thinketh, though manie of such as are commonlie reputed

* Ad. 2. pa. 10

* Du confessoire
art. 10. la
discipl. de
France.

Certaine
godlie mi-
nisters.

reputed ministers, are none indeed nor in law, yet * that a ^{Pa 97.98.99} common error conceived otherwise of them, shall make good and forceable the administration of sacraments, and of other functions of the ministerie, executed by them. Also some of our Hot spurs cannot abide the hauing of godfathers and godmothers, because they are not mentioned in scripture: but the Discipline of France, though it cannot exact them as of any necessitie, being not commanded in the scripture: yet doth it verie well allow of them, and establish their continuance. Likewise * some of our cheefe ^{* Du baptisme art. 6. la disci. de France.} Reformers doe wholie mislike, that baptisme vpon any occasion is ministered in a priuat place out of the church: but the discipline of France thinketh this no vnlawfull thing, and therfore aduise the minister, not * to doubt to baptize ^{* Du baptis. art. 7. la disci. de France.} a child priuatelie, and without any assemblie, when as for feare of persecution or such like, they dare not meet together. Againe, some of * ours doe thinke it simplie vnlaw- ^{* T.C. pag. 152. 153.} full, to haue anie holiedaies, as the feasts of the Natiuitie, Easter, and Pentecost, besides the Sabboth daie, because they thinke it an absolute precept, Six daies shalt thou labour. But the church reformed at * Zurike, yea and most of the reformed churches in the world doe obserue some such feasts, besides the Lords daie. Furthermore, our Abstractor (as you haue heard) doth condemne it as vnlawfull to haue those reteined to be ministers of the gospel, that haue bene Popish priests, and the like is the opinion of the * Admonitors. But * the discipline of France doth ^{* Admon. 1. * La discipl. de France. art. 3.} permit both Bishops and Priests to aspire to the ministerie of the gospel, after renouncing of their former faults: yet so, as * another of them doth teach, that they may not a- ^{* Daneus part. 2. l. 1. pag. li. 2. cap. 22.} spire to anie higher ecclesiasticall office, than they had afore, but reteine the old, and that also with a new creation: because the old character (he saith) is by the heresie worne out. Againe, it is verie vsuall with manie of reforming humors, to take no benefice or set pastorall charge, but to preach there, where they either haue a sufficient preacher

alreadie : or in great townes , where least need is of their helpe , and they are in that respect with many better accounted of. But our Abstractor condemneth all such absolute ordinations without any certaine title, and this vagarant kind of ministerie , and so doth another great * man amongst them : which misliketh wholie, that any are suffered to preach which hath no pastozall charge . Whereby he withall doth couertlie condemne all such, as vnder the name of doctors, as an office , not as a degree of scholes, hauing no title , but being set vp and hired to discountenance the pastozs , doe invade their cures and charges oftentimes euen against their mind and good liking. Also the same man condemneth as vnlawfull , and thinketh it is ἀλλοτριεπισκοπεῖν , for one minister to preach in anothers cure. Yet those amongst vs, that otherwise stand like affected with him, doe as much vse and practise this as any other. And ^a the discipline of France setteth downe a forme, in what maner one church may lend a minister vnto another : and ^b decideth likewise , that with licence of two or thre other ministers, such as haue departed from a church vpon occasion, may preach, before the matter (for their placing againe) be ordered by the Conference or Synod. It hath likewise bene holden and defended publikelie, that it is sincerelie vnlawfull to shift from any congregation to another : but ^c the reformed churches of France doe in many cases permit it . Now as concerning the establishing of lawes, orders, and ceremonies , and in the things themselves, there is like varietie of iudgement among them. For some ^d of them doe yeld authoritie to euerie consistorie to make and abolish such orders and ceremonies , as they shall thinke conuenient for the rest of the congregation; and in this respect ^e they hold, that euerie presbyterie may differ from another in orders and ceremonies : but ^f other of them would haue no such thing ordered, but either by a Prouinciall or Nationall synod . And the discipline of France doth thinke it most expedient , that all the churches

* T. C. pag. 63.

T. C.

^a Des minist.
art. 18. la dis.
de France.

^b Ibid. ar. 17.

^c Ibid. art. 10.
12, 13, 16, 27

^d Admo. 2.
pag. 46.

^e Ibid. pa. 11.

^f Eccles. disci.
726.

churches of one nation, retaine an vniformitie of orders
and ceremonies, to the which they ^a doe earnestlie exhort
those churches amongst them, which at the first had recei- ^a *Du conf-
ssoire art. 2. la
discipl.*
ued some other forme: for which purpose they doe also re-
quire a subscription, vnto the forme of their discipline, and
doe ^b prescribe it to be read in their consistories at the least ^b *Du conf-
ssoire art. 19.
en la discipl.
de France.*
at the times of Communion. Our Reformers doe plainlie
tell vs that the dutie of the Seniors dooth onelie consist in
ruling, and the deacons in providing for the poore: but till
it was otherwise ordered in diuerse ^c reformed churches in
France, the deacons did publikelie catechize, and yet still
for the necessitie of the times, they and the seniors are per-
mitted (being therevnto chosen by the consistorie) to cate-
chize in priuate families. Likewise ^d at the first our Refor- ^d *Admo. 1.
pag. 6. 16.*
mers did wholie reiect a prescript forme of praier and diuine
seruice in the church, vpon occasion peraduenture that the
French churches vpon certeine ^e considerations to them- ^e *Du conf-
ssoire art. 2.*
selues best knowne, had refused the hauing of ordinarie
praiers euerie daie, morning and euening, in the church,
when they had no sermon. But now (I take it) hauing
heard that in ^f most reformed churches, yea euen in Gene- ^f *Viderit
ecclesi. Tigur-
inæ.*
ua and in Scotland, they retaine a prescript forme of litur-
gie, they are content to let that conceit vanish. Againe, it
hath bene thought and is yet by some a verie heinous su-
perstition to communicate in unleauened bread: but it is
notorious that yet this kind of bread is vsed, and hath been
long in the church of Geneva; neither could they euer be
induced to change it, bicause of the great inconueniences
of all innouations, where the thing is not in it selfe wic-
ked. Whosoeuer our Innouators do constantlie hold, that cau-
ses of matrimonie, incest, adulterie, diuorces, and such like
handled in courts ecclesiasticall with vs, are mere ciuill
causes, & not to appertaine to their reformed Consistories:
yet the churches of Heluetia doe still entertaine the ^g *Simlerus
fol. 148. 157.*
knowledge and punishment of such causes and offenses.
Yea, and the Consistories of France doe intermeddle with
causes

^a *Des mariages, art. 1. la discipl. de France.* causes matrimoniall, as where they permit ^a authoritie to the Consistorie to licence such (if they see cause) to enter marrie, whose parents frowardlie doo refuse to yeld consent vnto them. Likewise ^b where they haue decreed that it is lawfull for a man to marrie the sister of hir, vnto whome he was onelie espoused and betrothed. And ^c where they permit him to vse his libertie to reteine or leaue his wife, which hath bene conuicted of adulterie. Moreover, diuerse of our Reformers doo thinke it vnlawfull, as the Abstractor in this booke, for an ecclesiasticall person to haue anie ciuill function: ^d yet the discipline of France, and their owne whole platforme doo permit a ciuill Magistrate reteining his former office to be chosen a Senior in the ecclesiasticall Presbyterie, & so to become an ecclesiasticall person: yea they doo ^e prescribe to their Ministers to make passports for passengers from one church to another, which is a ciuill dutie, as may appeare by the like practise by Iustices of the peace with vs. And (I praise you) is not this a good conuersion, and a sound reason: Some ciuill magistrate lawfullie is an ecclesiasticall person and gouernor, Ergo some ecclesiasticall person and gouernor lawfullie is a ciuill magistrate? And if some may be so, what prerogatiue may be alledged for anie one, which may not be shewed for others? Againe, it is thought by our Innouators to be a great inconuenience to be barred from publishing what bookes (concerning religion) they shall thinke good, which appeareth by their late practises and disobedience to lawes in this behalfe: yet it was thought most expedient in the reformed churches of France, to ^f forbid, that Neither ministers nor any other should cause to be printed or any otherwise published any bookes compiled by themselues, or by others touching religion, without imparting the said bookes first to the Conference, and if need were to the Prouinciall synod. Also in the reformed churches there, it ^g was thought most meet that Noble men and great Lords, to the intent all occasion of diuision

^f *Aduertisemens, art. 11. la discipl. de France.*

^g *Des Ministres, art. 11. la discipl. de France.*

mission might be rebated, should be requested, that in those places of their aboad, where there was a church reformed, although their owne familie were so large, that it might make a sufficient Congregation, yet it would please them to ioine their familie with the Congregation of that place, where they did remaine. And amongst vs manie be so scrupulous, that they thinke those words bled in the ordering of ministers, which Christ did vse in the like action, to wit, Receiue the Holie-ghost, to be verie sotwile abused and prophaned: yet in the ^a maner of Imposition of hands ordinarilie obserued in the churches of France, in the election of their ministers, it is set downe that the said place of S. Iohn should be amongst other places, at the said time and action repeated and treated of, with that also which is annexed, to wit, Whose sinnes ye remit, &c. Likewise our Reformers of others, are so vnwilling to be reformed, confirmed, or vniformed themselves, that they thinke they are wonderfull hardlie dealt with, and beyond all example of other churches, to be vrged to subscribe to the articles and confession of religion, and to the manner and forme of external discipline and gouernement bled in this church of England, whereof they are ministers: yet the church of France, which is so admired by them, and set as a samplar by them to be imitated, and according to which for the most part they haue drauone out their platformes, exacteth ^b of euerie one That hath beene chosen a minister by the people, to subscribe vnto the articles of faith, and to all the order of discipline agreed vpon amongst them, which if he refuse to doo, he is by the Conference, or by three or foure ministers of the next churches, together with their Anciens, to be declared a schismatike, and the people is thereof to be aduertised, to the intent they may auoid such a man. Also ^c those which be chosen ministers must subscribe to them, both in the churches where they are chosen, and also in the churches whither they are to be sent. Likewise ^d ministers in Noble mens houses, though they haue none other

^a La maniere
de la imposition.
tion.

^b Des Ministres, art. 5. la
discipl. de
France.

^c Ibid. art. 9.

^d Ibid. art. 11

^a Des anciens & diacres. art. I. la discipl. de France.
^b Des professeurs. ibid.

^c De Polit. eccle. & Reipub.

^d Admon. I. pag. 2.
^e Admon. 2. pag. 6.
^f Admon. I. pag. 3.

other care, are tied to this subscription. Again, ^a their Seniors and Deacons are also before their admission to their offices, to subscribe vnto them both. And ^b further, euen their Regents and Professors in diuinitie are by them required to subscribe, as well as the rest. And the like order is obserued (as is notozious) in the most, or in all the reformed churches in Germanie. In all which places (as we may see) it is thought a great absurditie, for a man to receive anie ecclesiasticall function in that church, vnto the orders of which by law duellie established, he can not find in his hart to subscribe and condescend. There is yet also another materiall difference amongst them to be touched. For ^c some of them doe attribute equall authoritie vnto all the people in this their Regiment with the Presbyterie, cleane contrarie to the most platformes set downe hitherto thereof. And although (as we haue now heard) their varieties in iudgement be so manie and so manifold: yet our men are so insolent against all other orders and formes of church-gouernement, and so besotted in the loue and admiration of their owne impe, which they haue begotten, but not as yet licked into anie perfect forme; that they dare condemne all churches, which are not squared in externall gouernement, according to their Lesbiall leaden rule, which euerie one of them will wrest and bend, as his farsie will feed him on. So that one of them is not ashamed to saie, ^d that As the estate is now of the church, there can be no right religion. Also, ^e that The truth in a manner dooth but peepe out as it were behind a skreene. And ^f againe, We want in England a right ministerie of God. Wherein he differeth from our Abstractor, as much as the Abstractor in another place differeth from himselfe, who is content to allow vnto vs, some to be right ministers in deed. Therefore considering the great benefits of almighty God, of the true preaching of his word, and due administration of sacraments, which by his Paiersties ministerie he hath in mercie farre aboue desert powred vpon vs, which

which these vnthankfull wretches doe thus abuse and extenuat, in respect that they can not obtaine their owne willes; we may of them trulie verifie that saleng of Gualter, which he spake * against such like men: All these things they esteeme as nothing, except a new magistracie may be erected, vnto whome it may apperteine, not onelie to controll euen princes themselues, but also to excommunicate them. Now all these contrarieties and differences in iudgement, concerning their deuised church-gouernement, being well weied and considered: I would aske of our Abstractor, or anie other affected that waite, which doe imagine as perfect a lawe, for the gouernement of the church, by discipline, as by doctrine to haue bene deliuered by Christ vnto his church: Where and in whose books that law is described and plainelie proued, out of the word of God vnto vs: vj.

* Gualter. in
1. Cor. 11.

Whether by these mens platformes, which I haue mentioned, agreeing so hardlie among themselues, or by some one of them, or yet by none of them: but that we must expect some other more skilfull than all the rest to arise by hereafter, to reconcile or confute all those, which haue hitherto writtten hereof: 2

Whether it be good and sound diuinitie, that hath bene alledged, concerning excluding christian princes from their gouernement in church matters, of excommunicating them, of releasing their subiects from obedience, and in some cases of deposing them, or no: 3

Where anie pregnant and concludung profe may be found either in scripture, or anie antiquitie, which doth suffice the gouernement of church matters in euerie parish by the minister, and by certeine men termed Presbyteri, being otherwise mere laie men, and of no ecclesiasticall function: 4

Whether if the generall conceiued error, be not by law sufficient to make the marriages and baptizings of force, which hath bene done and celebrated by such as our Abstractor 5

Abstractor reputeth not to be ministers: would he wish them to be remarried ouer againe, and baptized afresh by such as he taketh to be ministers indeed, as hauing bene hitherto not baptized: and so make void all benefits of subjects by purchase or descent hitherto growne vnto them and to their childzen, according to the course of the common lawes of this land, or no? And in case that either he, or any other be of iudgement, that the baptism conferred with water and the words of institution seriously pronounced, by him that is no lawfull minister, neither in fact nor reputation; or by him that is in reputation onelie one, and not in deed nor in law, be so vtterlie void, that the

6 partie ought to be baptized or dipped againe: Then I doe demand, how this may be warranted, either by the word of God, or example and testimonie of antiquitie, in the time of the primitive church:

7 Further I demand hereof, whie all those in like sort which haue bene baptized by Popish priests, whome our Abstractor holdeth neither for lawfull ministers indeed nor in law, and who were but admitted at taking order of priesthood, *Ad sacrificandum pro viuis & defunctis*, ought not as well as the former, to be baptized againe?

8 Again, whie the sacrament of the supper should be to the true receiuer thereof, at the hand of an vsurper, and no lawfull minister, more effectually, than the sacrament of baptism by this supposition is, being conferred by the same man vnto his child, which is the seed of the faithfull?

9 Whether the inequality of Gods gifts for the building vp of his church, being the chiefeest ground of the inequality of rewards, to the ministers thereof: must we yet of necessity and in iustice require, as great abilitie in him, that hath but twentie nobles or ten pounds by yeare, as is required or to be found in him, that hath an hundred marks by yeare to mainteine him? And whether the like difference and inequality both of gifts and rewards be not to be found in the vplandish towne of their dominions

ons and territories, which our reformers thinke to be without spot or wrinkle in their externall gouernement?

Whether such a minister that is of reasonable knowledge in diuerse points of doctrine, yet not able either to preach methodicallie, or to confute errors and heresies sufficientlie, as he that would improue the praising for the dead out of that place: There is a sinne vnto death, for the which I say not that you shall praie: Whether (I saie) were it more expedient to permit him to preach and to expound publikelie, or but to read godlie and learned homilies, and to exhort and dehort his parishoners onelie, as present occasion should be offered?

10

Whether in any other reformed church beyond the seas, where no such rite is by law established, if a minister would needs continuallie weare a surplesse in his ministracion, might he, ought he in iustice, or should he in fact, be put from his ministerie, for the disturbance of the peace and vniformitie of that church, or no?

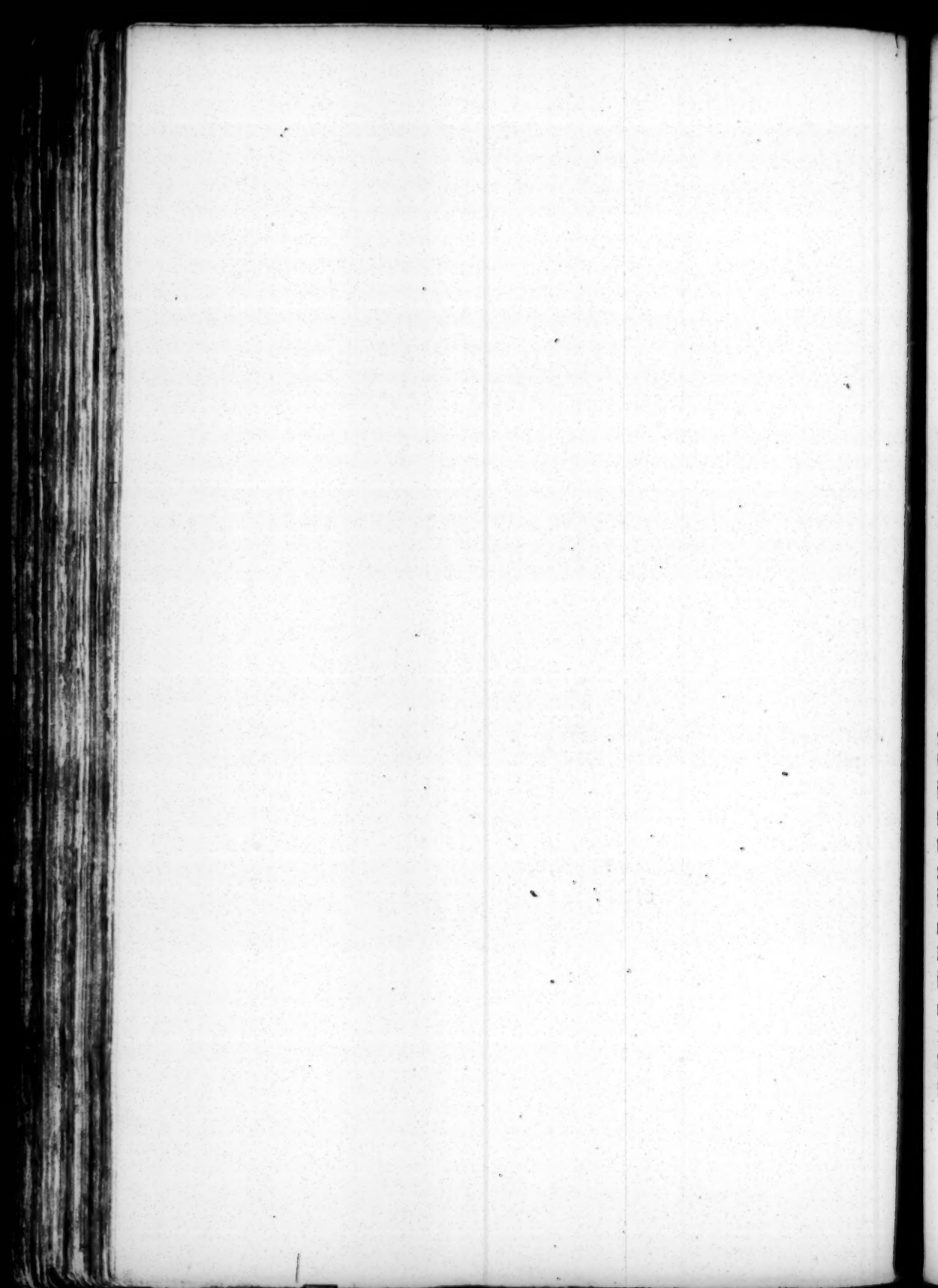
11

Whether a minister in the like forreine church, after monitions giuen vnto him to the contrarie, that will nevertheless publikelie in his sermons inueigh against the vse of vnleauened bread in the sacrament, or simplie or absolutely condemne all vsurie, whether it be biting, or but

12

ribbling, as sinfull and wicked, (the orders of that church being in both to the contrarie) might in iustice, or were like in fact, to be removed from his ministerie in that place, or no?

The end of the Appendix to the former Treatise.





An answer to the second Treatise
of the Abstract:

*That dispensations for manie
benefices are vnlawfull.*

I. Section. Pag. 107, 108.



If this conclusion, for
proue thereof in this whole
treatise he pretendeth to la-
bour, were granted vnto
him, as in part it ought to
be, though that be vnttrue
which he meaneth thereby:
might it not be said, that ei-
ther he knoweth not what
he writeth, or else willing-
lie spake vnpropertie, to

make the matter seeme more odious; as though it were
holden to be lawfull, to dispense with a man for as manie
benefices as he could procure? For seeing in our common
speech (howsoeuer the law more generallie doth construe
it) a benefice is taken for a pastozall cure of soules, ouer the
people of some parish: it is euident by the statute in that
behalf prouided, sauing those that be of hir Maiesties
councell, which may keepe thre benefices with cure of
soule, and hir Highnesse chapleines vpon whom she may
bestow what number of benefices she will: that no man
can be dispensed with to reteine *Multa huiusmodi beneficia*,
many such benefices, according to the true proprietie of
speech: yet some being so qualified as is required, may be
dispensed with to receiue and keepe *plura* mo than one,

D. J.

euera

21. H. 8. c. 13
The Ab-
stractors
discourse
wholie im-
pertinent.

*4.H.7.10.

*Pag. 159.

Factions
dealing a-
gainst law.Wandering
from the is-
sue.

even but two in all, which cannot properlie be called Many, except the matter were of great raritie. Unto all which dispensations so by statute-law and act of parlement warranted, both he and all the subiects in the land, in the creation and construction of law, are deemed to haue consented. And therefore that he or anie other should call them Unlawfull, or presume to inueigh publikelie against them (as he telleth by some to their great commendation both by speech, writing, and preaching to be practised, whom therefore he calleth The Lords seruants) I for my part can not see how it can be excused from faction and great contempt of his Maiestie, and his lawes. Or else, why may not I, or anie other priuate man whosoever, in like manner, with as good toleration as he (perhaps vpon my particular conceipt against some other of the lawes of this land) take pen in hand, and tell all the subiects in it, that they are no lawes in deed, as being against the word of God, the law of nature, of reason, and of nations: And thereby to giue a dangerous ouerture and open window to the losing of the ioints of all obedience to lawes: and to turne ouer those matters, which are to be debated with great moderation to & fro, onelie in the most honorable & high court of parlement, to the dispute and graue censure, naie to be a theame for enerie slieng pamphlet to iangle, and euery ale-bench to ring vpon. It is good & sound counsell that one giueth about the rules of oratorie, that he which is to treat or to write of any matter, shall deale aduisedlie, if he prefix before him continuallie the verie point of the issue wherunto he is to speake; least by the course & streame of matter vpon matter, he be carried from the purpose. Which aduise, if our author had followed, he would not in this & diuerse sections following, haue giuen vs *ἀντιπαρλόγου*, *quid pro quo*, one thing for another, as apothecaries are burdened sometimes to doe. For how doth this follow: It is against the law for a man to haue manie benefices, Ergo it is against the law to dispense with a man to haue manie benefices,

nesses, or for the retaining of two benefices. For the
 contrarie is true & followeth well. The law in some cases
 doth permit a dispensation for retaining of mo benefices,
 considering a dispensation needeth not, but where the rigor
 or generalitie of law, is vpon some occasion to be declar-
 ed, mitigated, or released. And it can not be called a dis-
 pensation or immunitie, but where the law is or appeareth
 to be in generall termes otherwise to the contrarie. And
 it is incident to the libertie and freedome wherein we are
 borne, that we may without further licence doe that which
 law doth not forbid vs: in which respect *Privilegium* is cal-
 led *Quasi priuata lex*, a priuat or particular law, touching
 but a few in comparison of those that be within the gene-
 rall disposition of that lawe, which seemeth to be contrarie.
 And therefore by as good pretext and colour of probabilitie,
 he might haue reasoned thus: By common right in this
 land, a felon or traitor condemned is to be executed; *Ergo*
 it is vnlawfull for the prince to pardon him. Or thus: By
 common right, all wrecks, dedans, fellons and outlawes
 goods, lets and viewes of franke pledge doe belong vnto
 the crowne: *Ergo* the speciall grants of these and such like
 from hir Maiestie and hir noble progenitors, to sundrie
 persons and corporations in this realme, are vnlawfull,
 and the patentees can not with a good conscience enioy
 them. And againe: It is not permitted simplie to euerie
 man in the land to weare cloth of gold, cloth of siluer, lu-
 zernes, sables, veluets and silkes; *Ergo* the immunitie
 granted to great personages to weare these or some of
 them, is vnlawfull. So that till our author shall take vpon
 him to proue, that either the law doth not permit anie
 dispensations at all for mo benefices than one, vpon anie
 circumstance or occasion whatsoever: or else that the law
 ought not and can not grant anie such immunitie or pri-
 uiledge: we must follow him by and do wone at rouers,
 speaking to no purpose, and in the meane time (as the pro-
 uerbe is) wash an asses head. Therefore let vs brieflie looke

* c. quia non-
nulli, Ext. de
clericis non
resid.

into his profes, against one mans reteining of mo benefices, and into his apodestlicall syllogisines, collected vpon them as he imagineth. His first allegation * taken out of the decretals (though both it and all other sounding to that purpose be to be vnderstood, as shall appeare after, of such persons onelie as be not qualified as they ought, nor dispensed with as they might) doth yet simplie, in it selfe considered, make nothing against the practise of our church herein: for it prouideth against the couetousnes of such onelie, as Being scarce able to discharge one office, doe not onelie seeke, being vnqualified and vndispensed with, to Procure vnto themselues diuers ecclesiasticall dignities, but also Diuers parish churches. So that it might verie well be applied against such a man, being priuie to himselfe how vnworthie he is for the enioieng of anie such extraordinary fauor, and therefore out of hope euer to procure dispensation: would *De facto*, for the satisfieng of his greedy gaine, inuade as manie dignities and inferior benefices ecclesiasticall, as by hooke or crooke he could anie waie come by. For the other * place here quoted, clerelie decideth: both that with dispensation, a man may reteine lawfullie two personages, two dignities, prouostships, or offices, togither with a prebend (though all three belong to one church) so the same be expresse contained in such dispensation: and also that if the custome of the said church be so, he may reteine one personage, dignitie, prouostship, or office ecclesiasticall togither with a prebend, without dispensation. And therefore his second or thirde proposition of his first syllogisme, where he simplie assumeth, that the enioieng of many benefices, howsoeuer, or by whomsoeuer, to be a maintenance of couetousnes, is not true, nor out of this place confirmed. For if it were *Causa per se, & non per accidens tantum*, of couetousnes, then should the hauiug of so much p'relie liuing, as such benefices ioined togither amount vnto, be vnlawfull, & condemned as a necessary roote of couetousnesse, in anie man whatsoeuer.

And

* c. 1. de con-
suetudine in
6.

And if his first proposition or *Maio* be understood of a cause or maintenance of couetousnes *Per se*, then hath he made a fallacie *Ab accidente*, to condemne in his *Minor*, that, as simplie mainteining of couetousnesse, which one lie by accident and casualtie falleth out to giue an occasion for a couetous mind to worke on. But if he meane, that euerie thing is unlawfull, which accidentallie may occasion couetousnes, then is his *Maio* untrue: for then, gold, silver, possessions, children, and all such externall goods, whereby (not by any fault in themselves, but as by an occasion) men be diuerslie drawne into couetousnes, should be condemned and abandoned as simplie unlawfull. His second syllogisme is a fallacie *Ab eo quod est secundum quid simpliciter*. For his *Minor* is false, if it be understood of those that be both qualified and dispensed with, as law prescribeth: which he setteth downe as simplie true, bicause the canons forbid generallie men not dispensed with thereunto, to retaine mo benefices. The like is to be said of the third syllogisme, whose *Minor* being propounded simplie, as though euerie one (though he be dispensed with) taking the stipend of mo benefices, did take that which is due vnto manie: is vtterlie to be denied. Except he will saie, that as the said stipends haue bene heretofore seuered vnto mo: so they may be againe, and therefore are due to many. But then, seeing he disputeth not according to the same time, his argument is faultie vpon the Ignorance of the elench. And if his *Minor* of his fourth syllogisme be vniuersallie taken, which it must needs be, or else his conclusion will be particular, and carrie no shew to his purpose; then is the same also as untrue as the former, and to be denied. For I do not doubt but there be verie many in this church of England (though not so manie as were to be wished in respect of the parishes) which by the mercie of God are as well able in all respects, considering the frailtie of man, to discharge that dutie, which is incident to a pastozall charge; as in any age heretofore hath

bene found, either here, or in any other like particular church or nation elsewhere soever: which thing also he himselfe setteth downe as a truth, and as a dutie that may be discharged, so the partie be resident, even in the Minor of his last syllogisme in this section. The Major proposition of which his last syllogisme, except it be ment of a perpetuall and a continuall hinderance, which yet the partie himselfe might auoid, or of such as otherwise dooth not bring some greater or as great a benefit to the whole church some other waie, is vtterlie also vntrue. For besides the greuous visitation of God by sicknesse, which is no sufficient cause (as hath bene afoze shewed) to remoue a man from his benefice, who therefore may haue a coadiutor assigned vnto him: there may be manie other causes laid downe, for the which a man may iustlie sometimes be awaie from his pastozall charge, and discharge it by another: as namelie if he be abroad for recouerie of his health: if he be called by his superiors authoritie to answer matter in law objected against him: if he be forced for the repulsiue of greuous and intollerable iniuries, to prosecute another in law, or for the reteining of his owne right: if he be sent of ambassage by his prince, or otherwise necessarilie employed and commanded attendance: if his helpe be required in other places for the pacieng of schismes and disorders, and for confutation of heresies: if his paines and trauell be required for the confirmation of true doctrine, taught by another: if his presence be desired as needfull or expedient at some consultation about church matters, as at some synod particular, prouinciall, nationall, or generall: and lastlie, if some other parts of the said nation and church should otherwise be wholie destitute of a pastoz to feed and instruct them. For if vpon these and manie other like occasions, of no lesse importance, it were simplicie vnlawfull for a minister to be absent sometimes from his pastozall cure, and to substitute another to supplie his roome: whie (I praye you) may diuerse of your Saints of God, and seruants of the Lord,

Lord, which by a pharisaicall *ἀντιστοιχία* you oppose against all other not so fantasticalle affected as they: While (I saie) may they gad abroad from their cure, hauing no cure else, where to looke vnto, by the space of five or six moneths sometimes in a yeare hither and thither at pleasure, and lie from their cures by the space of three or foure moneths by tropps together in London, or at the least a whole parliament time, being not called to counsell in the conuocation: Is there by their absence some publike commoditie comming or growing towards the church; and may not another learned pastor, hauing diligentlie fed his flock by a good part of the yeare in one place, yet not neglecting the other people in the meane time, bestow to the profit of the church, the rest of the yeare in painefull preaching and teaching to the people of another parish? Both which peraduenture might else be either wholie destitute of preaching, as being seuerallie no sufficient maintenance for a man of studie and qualitie, or else haue but such a one, which being as bold as ignorance may make a man (which is the greatest boldnes that may be) would aduenture to speake, not knowing at the first what or how to speake, and yet being once set of talking, could not tell how or when to make an end.

ἀντιστοιχία τοῦ μᾶ

2. Section. Pag. 108, 109.



This chapter like as the former speaketh against such as reteine manie prebends, yea more than two, & that without dispensation. Which may appeare both by the glosse, and also bicause it is called ambition in them, which * is not appliable vnto

those, whome the partie authorized there vnto, finding sufficientlie qualified, shall for good cause according to lawe dispense with for reteining of such benefices. For ambition resteth, either when a man vtterlie vnworthie will set him-

selfe.

selfe

* Panormit.
in c. de multis
Ext. de preb.
in fine.

His reason
retorted a-
gainst his
owne adhe-
rents.

selfe forward arrogantlie to that which he is vnfit for; or being worthe, shall seeke it by vndue meanes, and contrarie to law. And therefore, as it looketh not towards his purpose, to proue dispensations for mo benefices vnlawfull; so can it not be applied against the practise of this church wherein none be allowed to reteine mo pastozall charges, or other promotions ecclesiasticall, in law termed benefices, without dispensation: though in truth it reach a blow vnto diuerse of his clients, who can be contented (notwithstanding in law a prebend be accompted a benefice, and in some cases also haue cure of soules) to reteine one, two or three, yea foure prebends sometimes; onelie bicause they do not passe in common speeches vnder the names of benefices, and to the intent of residence and incompatibilitie by statute law, are not accompted cures of soules: yea, and that without all dispensation, according as is required. Which therefore can not in them be cleared from the staine of ambition, howsoeuer they beare it out with a stearne looke, and a cloud in their forehead amongst those which admire their great sinceritie, and which do verelie beleue, that their feed is so pure, that they would rather liue by aire alone, than be sustained by church linings, euen as the Chamæleon is supposed by some to do, with as great truth, as that such haue no prebends to mainteine them.

A fallacie
ab accidente.

His first reason here, touching the maintenance of ambition (by pluralitie of benefices) is sicke euen vnto death, of the same disease that his first syllogisme of his other section was, and is a fallacie *Ab accidente*: because though some may be led therevnto by ambition, yet is it not anie necessarie efficient cause thereof. Yea, in his *Prinor* of this syllogisme lurketh a fallacie $\pi\alpha\rho\alpha\ \tau\ \pi\tilde{\iota}\ \acute{\alpha}\varsigma\ \alpha\tau\lambda\acute{\alpha}\varsigma$, bicause though it be ambition in such as seeke to aspire to preferments, which the law will not intitle them vnto: yet is it not ambition in those, which being qualified according to law, do seeke it onelie by ordinarie meanes. That which he speaketh in his second syllogisme of Roging, is his owne proper

2. Se
; or
ntra
his
law
urch
ges,
nefi
low
with
d in
o c
they
be
itie
rea,
qui
the
h a
ose
lie
ine
as
eat
n.
my
th,
se
gh
nie
is
le
er
it
to
he
re
er

proper goods, and not borrowed out of this canon. The Dissolution and often going to and fro, which the canon speaketh of, and he translateth as it liketh him, a Dissolute and gadding ministerie, whereas yet no mention is made of ministerie, is (as I take it) set downe, to shew a difficultie of reteining such within the bounds of ecclesiasticall rules and offices, which by occasion of their severall prebends situate in diuerse churches, are often called to and fro about the affaires incident to their severall linings. Yet neither doth this Decretall simplie condemne, as a thing intolerable, all such Going to and fro, but where it containeth perill of soules withall: neither can it be with anie reason found fault with, where otherwise vpon some weightier occasion, it tendeth to a greater benefit towards the church, than this can anie waies be offensive: which offense, is the onelie ground almost, why this often going to and fro, can with anie colour be reprehended. And therefore his Maior must be better vnderlaid with reason, before we may absolutelie admit of it, as true. The Medium or reason of his third syllogisme, which he maketh severall by it selfe, is ioined with a copulatiue to the reason of the former syllogisme, and so both they should make but one reason. Now, to haue diuers benefices, doth not necessarilie containe (as he assumeth indistinctlie in his Minor thereof) anie perill of soules: but onlie then, when the partie is not dispensed with to reteine them, as the *glosse in the same place doth teach vs. And therefore his reason is a paralogisme παρά τὴν ὡς ἀπὸ λῶς. The cause of which perill of soules, ouer and aboue the parties owne danger, bicause he can not with a good conscience reteine vnto himselfe anie thing against law, is assigned to be this: that * he being not dispensed with, and therefore his benefice, though in fact by him reteined, yet by law in deed materielie void: all his exercise of the keyes for binding and loosing of the parishioners of his first benefice, shall thereby, as being done *A non iudice*, become void also, and so those

* Gl. in c.
quia in san-
tum Extr. de
prebendis in
verbo ani-
marum per
text. c. du-
dum. 2. Extr.
c. de elect.

* Gl. ver. de-
cepta. c. du-
dum.

* c. si quis &
c. cum ali-
quis. 24. q. 3.

those shall forsooth dangerfullie remaine in their sinnes, which thought they had bene by him in Christ cleerelie absolved. Which reason being by the light of Gods gospel discovered to be but vaine, that which is built thereupon must needs topple downe to the ground withall. For we know that no * sentence of anie mortall man can either bind or loose a mans sins, otherwise than the word of God doth warrant and declare: according to which if it be pronounced by whomsoever, the sentence is good, and ratified by God himselfe, as he hath promised. In which respect also some canons, and some of the sounder scholmen haue taught, that the sentence of the priest doth onelie bind declaratiuelie, and not dispositiuelie. The Maior proposition of his last syllogisme here, doth by no coherence of reason hang together: for both in the church and commonwealth manie occasions may be assigned, that doe in some sort indirectlie hinder oher from doing fruitfull service in either of them, which yet may and ought to be tolerated. For what if some notable man by due desert haue attained diuerse high offices, which by reason of the manie old reuerend yeares wherewith God doth blesse him farre beyond all expectation, in which time neuerthelesse manie other excellent men perhaps are bred vp, by all likelihood able in verie good sort to serue in those seuerall romes of the church or commonwealth which he enioieth: shall such a man in this regard be stripped forth of most of his liuings, least others should want in the meane time, and be hindered from imploiment according to their sufficiency? Or shall we therefore accuse old-age, and the blessing of manie yeares as a thing intolerable? So that we see it is a Fallacie ab accidente, like diuers of the rest which are branded with the same stampe. The Minor also of the said syllogisme hath as slender color of truth as the former. For as one of the ends (as I conceiue of the statute) was to haue such as were intended to be of greater gifts, to haue larger rewards: so was it another end, rather to haue two diuerse

dinere parishes allotted to one man able to instruct them, and they to mainteine him : than to haue them serued by two seuerall men not sufficient to instruct either of them. So that it may trulie be verified, verie few sufficient preachers, by this onelie meanes of one mans inioieng two benefices, to want maintenance, or to be hindered from doing seruice in the church : which may appeare by taking an estimate in euerie countrie of such livings, which be of as sufficient liueliehood as the most seuerall livings of anie pluralists, which are not yet bestowed so well as were to be wished.

3. Section. Pag. 109, 110.



If the text here alledged, whence the reason of this Syllogisme is gathered, it is said, that After a sort, he that vsurpeth vnlawfullie two benefices, doth commit theft : which word of *Quodammodo* was necessarilie and warilie added, because Theft is defini-

ned to be Contrectation or handling of another mans goods, without the goodwill of the owner : which cannot be applied properlie to a void benefice, whose proprietie is indad and in strict termes of law in no man, during that time, but (as the common lawyers also do teach vs) *In nubibus*, in the clouds and in suspense. Which necessarie limitation, though our autho^r hath inserted in his syllogisme, yet hath he omitted to translate it with the rest of the text.

Corrupt translation.

But it is answered in the next section afore, both by the text here alledged, and by the glosse vpon the other decreetall there handled, that there is neither danger of soules, neither any maner of theft committed, but where a man vsurpeth mo benefices than one, being not by law ther vnto authorised or dispensed with. For the *text it selfe thus distinguisheth : If it appeare, that after the enioieng of the archdeaconrie, hauing cure of soules annexed, he retained

* *c. dudum. 2.*
§. *nos igitur.*
Ext. *de electis.*

* c. de multis.
finali. Ext. de
prebendis.

teined the said parochiall churches also at the time of his election, neither did shew forth that he was dispensed with by the apostolike See, then his election shall by authoritie thereof be frustrated. And the like distinction also is found in the other chapter * here quoted in these words: But concerning great personages and learned men, which are to be honorablie respected with greater benefices (as reason shall require) the apostolike See may dispense. Therefore it is evident, that his Minor proposition is in two respects false: first where he assumeth, that the Pluralist taketh that which belongeth to another: and againe, in that he affirmeth simplie and absolutelie, without the former distinction of law, that he committeth theft. And likewise it appeareth that he crusheth himselfe against the said rocke of Paralogisme, $\mu\alpha\rho\acute{\alpha}\ \tau\epsilon\ \pi\acute{\eta}\ \acute{\alpha}\varsigma\ \acute{\alpha}\pi\lambda\acute{\alpha}\varsigma$, whereat he hath so often made shipwacke of reason.

4. Section. Pag. 110, 111.

* Glos. in ver.
singulis c.
sing. n. dist. 89.



Falsificatio.

* c. per laicos
in fine. 16. q.
7. ubi gl. in
ver. Dnas.

This first place heere alledged out of the Distinctions in the Decrees, the * Glosse trulie doth answer, that it is to be vnderstood to be indeed The generall lawe, yet limited and restrained vpon diuerse occasions of Speciall priuilege, euen by other parts of the same lawe, as shall (God willing) be made manifest hereafter. The other place in this section alledged, is shamefullie by him falsified: for he hath put in (more than anie booke, that I can find, speaketh of in that place) all these words, wherevpon his three syllogismes insuing are grounded, to wit: Both bicause it is a proper kind of merchandize and filthie gaine, and also altogether contrarie to the custome of the church: where in trueth, that * canon saith nothing else but this; Let no priest haue two churches. Which the glosse, for auoiding of contrarietie with other lawes, doth thus interpret, that is, Not two churches with title, except they be poore churches,

ches, as is to be found, *c. eam te: Ext. de asat. & qualis. aud. c. vno, 10. q. 3.* Feuerthelesse the truth is, that these things may be verified of such men, as wholie contrarie to the canons doe vsurpe mo benefices, than they are dispensed with by law to receiue. And therefore the like words are used in another * canon, yet not simplie, (as our author ^{* c. 1. 21. q. 1.} without any simple meaning or plaine dealing hath alledg^{in fine.}ed) but with distinction, that it is meant, That none shall hold by waie of title two benefices in two seuerall cities, or in that citie where the seauenth councell was assembled, though in villages abroad, by reason * of scarcitie ^{* c. priscus. 56.} of such men, it be permitted: bicause it was then intended, ^{dist.} that in cities all things necessarie being more plentifull than in the countrie, they might by one benefice be sufficientlie mainteined. Therefore his three seuerall assumpts or *opinoz* propositions, wherein he assumeth without profe, that absolutely, It is against the good custome of the church, a proper kind of merchandize and filthie gaine, and vncomelie, in anie respect, for one man to haue mo benefices; are all to be denied as vntrue. Yet I must put him in mind, that the *opatoz* of his last syllogisme is also vntrue; bicause, if he vnderstand, In the church, that is, amongest christians (as he must needs doe, or else taking it for the publike assemblie about the exercises of our religion, he shall speake besides his purpose) manie things are lawfull, which are not expedient, and therefore not comelie.

5. Section. Pag. 111, 112.



If his store to this purpose were either so great, or so good as he maketh boast of, then was he greatlie ouerseene in his choise, to cull out this constitution of the Legat Octobone in stead of all the rest. For the words which he hath alledged, as is euident
to

* *Const. Osho-*
boni de infi-
ent seu colla-
tionibus. §. I.

to him, which will peruse the former part of that * constitution, (which yet our author of his owne absolute authoritie hath transformed and diuided into two chapters, as though the one did not depend vpon the other) are spoken against such, as Are not able to take charge ouer themselves, which doe not reside vpon their cures, which are not in any sacred orders requisite to the reteining of such a benefice, which doe not onelie vsurpe manie, but infinite such benefices, which though they would, yet by no possibilitie are able to satisfie their charge, which violentlie intrude themselves into such benefices, which by subtile deuises & colourable shifts doe seeke to reteine them, & lastlie which haue no dispensation therevnto obtained from the apostolike See, as the canons in this behalfe doe prescribe. Therefore it is no maruell, those so manie blemishes, or diuerse of them concurring, that these blind leaders (except they had bene as blind as moles or beetles) did perceiue such great inconueniences therein, as that they could not but thus greuouslie exclaime against them. Which before it can be applied to our pluriſied men, as this foolisied phrase finer termeth them, he must first proue, that the cases of both are alike.

6. Section. Pag. 112, 113.

IC could neuer haue come to passe, but that the Abstractor is *Gnauiter impudens*, that he should object the same statute for the absolute prohibiting of the reteining of mo benefices, which doth alonelie establish all dispensations for Pluralists (saying for the Chaplens of some few qualified persons, by other statutes afterward provided for) that he or can be put in practise in this church of England. Wherein yet we may obserue euen in the very words by himselfe alleged, though we go no further, that

that the having of mo benefices is not so generallie prohibited, but that in respect of the pouertie of the first benefice, as being vnder eight pounds yearelie value, agreeable partlie to the canons in this behalfe, a man may without furder qualification or dispensation by that statute exacted, reteine also a second of what value soeuer, without auoiding himselfe from his first benefice. And because our autho^r hath here made a gallant shew of certeine generall lawes, prohibiting (though not simplie) the reteining of mo benefices: and is now readie prest to improue with all his might, that which may be objected to the contrarie, touching such lawes, as doe permit by dispensation to some persons and vpon some occasions, the inteing of mo than one: it shall not be amisse breeflie to point out such lawes and canons (besides those few, which hitherto haue bene here and there asforesaid) which doe directlie proue, that by dispensation it is lawfull, to be possessed of mo benefices than one at once, vpon some reasonable occasions.

It appeareth by a ^a whole Decretall set downe of purpose concerning pluralitie of benefices, that dispensations may be granted for reteining of mo benefices by one man. It is likewise in another place ^b decreed, that as those which can not shew forth sufficient dispensation, shall be deuicted of those benefices, Which in that respect they doe vniustlie hold, so if they can shew a sufficient dispensation, they shall not be molested for them, because they doe hold them canonicallie. Manie examples herof might be alledged here and there dispersed: as ^c where certeine prabendaries are mentioned to haue claimed an exemption in the parish churches, which they intoyed; because the place whereof they were prabendaries, was exempted. And ^d againe, where it is decided, concerning the distribution of his goods, which had diuerse benefices. Another example herof may be taken out of Concilium ^e Agathense, where it is decreed, that An abbat may haue two monasteries,

^a c. de multa.
Extra. ex-
crabilis de
prebendis.

^b c. ordinarij,
S. I. & S. co-
terum de off.
ordinarij in 6

^c c. cum Ca-
pell. Extr. de
priuileg.

^d c. relatum.
2. S. fin. Extr.
de testam.

^e c. unum. S.
pons. 21. q. 1.

^fc. Clevicium
 & c. sequente
 ibidem.

^gc. relatio. &
 c. v. ibidem.

^hc. unio. 10.
 q. 3. c. eam te
 Ext. de etas.
 & qual.

ⁱc. ult. §. si
 que dist. 70.

^kAdd. ad gl.
 ver. in dua-
 bus, ibidem.

^lc. 1. in fine
 21. q. 1.

^mc. relatio. d.
 c. de multa,
 & c. ordinarij.

ⁿGl. in ver.
 pendens. c.

eam te Ext.
 de etas. &

qual. c. super
 eo & c. cum

singula in pri.
 ver. nisi unus
 de prebendis.
 in 6.

steries, and both of them as in title, but by special priu-
 lege, and not of common right. And it is decreed in the
^f Councell of Chalcedon, that a man may be a Bishop of
 one place, and an Archbishop of another all at one time, yet
 the one by title, the other by way of *Commendation*: like as
 we read of Oswald, who in the daies of king Edgar before
 the conquest retained both the Archbishopricke of Yorke,
 and the bishopricke of Worcester together. An example al-
 so hereof more ancient doth appeere in the ^g daies of Gre-
 gorie the Great, where by his appointment one was both
 Bishop of Terracon, and Bishop of Funda at one time; yet
 the one by title, and the other Commended vnto him by
 waie of trust for tuition. And the glosse hath verie well
 gathered out of Hostiensis fivie other causes, wherein two
 benefices may be committed vnto one man to be holden
 in title. ^h First, when the churches be of poore and meane
 reuenue. ⁱ Next by the dispensation of the Bishop, so that it
 be in his owne diocesse, and in simple benefices, for ^k other-
 wise it belongeth (saith he) to the Pope to dispense. ^l Third-
 lie for scarcitie of sufficient men to serue in that function:
 vpon which consideration, the canon alloweth in villages
 in the countrie one man to haue two benefices. ^m Fourth-
 lie, by dispensation of him that hath authoritie, which in
 those times they attributed to the Pope. ⁿ Fifthlie and
 lastlie, if one benefice be annexed or do depend vpon an-
 other.

7. Section. Pag. 113, 114, 115, 116.



The Abstractor seemeth in this
 section so big with matter, that he
 confusedlie shufflesh together the
 confutation of his aduerfaries (sup-
 posed) obiections, with the proofes,
 which he bringeth to oerthrowe
 dispensations, as not knowing whe-
 ther of them he had best to be first
 deliuered

delivered of : and yet it will proue but a timpanie, which in this manner doth no lesse trouble him, than if it were an arrow sticking in a dogs leg. First of all he here telleth us, that Although the magistrate in some cases besides the law, may licence and dispense, yet in the matter of pluralities it will not be found : being as much in effect, as if he had said ; None authoritie whatsoever can lawfully warrant a man to retaine two benefices. This neuerthelesse he leaueth vnproued whole, and passeth on, by waite of objection vpon ground of certeine generall rules, to frame for those which are Abbettours of pluralists a reason, which I will briefely gather into a syllogisme, though he haue onelie framed an enthymeme thereof, and in stead of the antecedent, to wit : that Churches were founded and distinguished by law positue, which afterward he affirmeth to be vntue, he here denieth not that, but the Consequence, as vnneccessarie and sophisticall. The argument may be thus gathered. The same authoritie, which hath first distinguished churches, may vnite them againe. For the reason and ground thereof, he bringeth these generall rules, He may pull downe, who hath set vp : and the interpretation of the law belongeth to the law-maker. But the authoritie of positue law hath first distinguished churches: *Ergo* the authoritie of Positiue law may vnite them againe. To those generall rules in the first place he answereth, that If they be generallie vnderstood without limitation & distinction, they be either vtterlie false, or else contrarie and repugnant to other principles of law. Truelie this is verie strange law vnto me, to heare that one principle of law is contrarie to another. If he had said repugnant alone, it had bene tolerable : but he speaketh with a copulative, and saith, they are both contrarie and repugnant. Wherin also he ouerleapt his Logike a little, for there can be no doubt but that euerie Contrarietie is a Repugnancie, though not contrariwise. And I alwaies was charged to beleue, that there were no Antinomies in law : though

Pag. 110.

A. j.

yet

yet this be true, that mere contrarieties, yea and contradictions also (as afore hath bene touched) may be collected, and will follow upon those reasons, which may be gathered upon generall rules. And therefore the safest and most sound reasoning is drawne from the particular decisions of law, and not by the infinit disputes and altercations (as Tullie calleth them) arising of generall rules. And where he saith, that If they be generallie vnderstood without limitation, they be false, how can he apply this anie waie to his purpose? Except happlie he will reason in this sort: There are some cases wherein they faile, Therefore they faile in this point also, which we now speake of: and then this is a Fallacie *παρὰ τὴν ὡς ἀπὸ λῶς*. Also where he secondarily answereth, that No Maxime in law is so infallible, but that it receiue limitations and restrictions, he saith true, though to his purpose verie impertinentlie: except he could shew, that in this case, which we now haue in hand, it is so limited and restrained, as he would inforce. And yet by the waie it may please him to call to mind, that now he condemneth that reasoning upon generall rules As weake and without any sure settling, which so oft he himselfe in the first treatise hath bled. Also in this place we may obserue a contradiction by him deliuered: where he saith, No rule can be so generallie giuen, that receiue not some limitations: which is (as he affirmeth) an infallible Maxime in law. For either this Maxime & generall rule must not be so infallible, but that it shall receiue some limitations, or else that other must be vnttrue, that there is no generall rule, but it hath his limitations.

Inconstant
Dealing.

A plaine
contradiction.

But he leaueth at the last these reasons of random, for prouise onelie that generall rules may receiue limitations, and taketh now upon him to proue, that these two rules then doe faile in deed and receiue limitation, when the cause of the prohibition is perpetuall. But his prouise hereof is nothing else but his owne assertion, without either law or interpretoz of law, which so dooth limit it. For in deed

ned the law, which he here quoteth, and the glosse which al-
 legeth that law, saith nothing else but * this, that If I take
 stipulation or bond of a man, to doo that which either na-
 ture forbiddeth to be done, or which the lawes doo forbid, so
 that there shall be a perpetuall cause of the said prohibi-
 tion, the bond is void. But how doth this proue, that the ge-
 nerall rules afore touched be limited and distinguished by
 this law, whereof it maketh no mention? Yet if we should
 admit it, can it be truelie said, that the lawes doo so forbid
 retaining vpon anie occasion or by anie meanes two be-
 nefices, that the cause of that prohibition shall be deemed
 to be perpetuall: Seeing the lawes themselves do directlie
 (as you haue heard) vpon sundrie occasions determine the
 contrarie. Neither yet doth it follow, bicause a bond is
 void, which is taken against such a law which hath perpetu-
 all cause of prohibition, that therefore an indulgence and
 dispensation of like sort should be also void. For he will
 not denie (I hope) but that the reason, why malefactors
 ought to be punished is perpetuall, as not being of that
 nature which may be wholie abrogated: and yet in some
 speciall respects it is lawfull, euen *In foro conscientie* for the
 prince to pardon their faults, and to release their punish-
 ment. For (I trust) our Abstractor is not of * his opinion, *T.C. pag. 98.*
 which thinketh both that the law of Moses for capitall pu-
 nishments ought exactlie euen among vs to be obserued,
 and also * that his Maiestie ought not to pardon the life of
 anie, which God by the Iudiciall law giuen to the Iewes,
 did punish by death. ** T.C. pag. 100.*

Now hauing by the examples of Murther, theft, and
 blasphemie, which haue a perpetuall cause of prohibition,
 shewed his meaning herein: he ariseth from these particu-
 lars to collect a generall *Ab hypothesi ad thesin*: that seeing
 None may take awaie or dispense with the reason of a law,
 being the life and soule of the law, therefore no man can
 dispense with the law, or take awaie the law. Which being
 spoken indefinitely of a law, must needs be equivalent

Contrarie.
tie.
Pag. 113.

* *L. non om-
nium. ff. de
legib. Abb. in
c. si quando.
Extr. de re-
scriptis.*

(as law doth teach vs) vnto an vniuersall : and then both he shall be found to be contrarie to himselfe, having before deliuered, that In things depending vpon the meere disposition of man, the magistrate may dispense : and also beerie absurd, in taking awaie all priuileges and exemptions from the generall rigor of sundrie lawes. **Spo**reouer we are taught by law, that of * manie lawes a reason can not be rendered, neither ought we too curiously to search after the reason of them. **W**hereby will follow vpon this mans words, that manie good & wholsome lawes doe want their life and soule. **B**ut if he will saie, he onlie meant such like lawes as he brought his examples of, which doe seeme immediatlie to flow from the law of nature : besides that it had bene meet, he should haue expresse herein his meaning plainlie, yet is the cōsecution of his argument faultie; for that it is not necessarie, whersoever anie of these lawes, which are deriued immediatlie from the law of nature, are vpon anie circumstances dispensed withall, or taken awaie, that it should be concluded therevpon, that The reason, the life, the soule of the law, which is the law of nature, is taken awaie. **F**or though God, whose will is perfect iustice, and who prescribe lawes to other and not to himselfe, did appoint the children of Israē to rob the Aegyptians : yet this notwithstanding, the generall law against theft grounded vpon this reason and law of nature, That one man may not hurt or doe iniurie to another, was not after this time hereby taken awaie, or out of this case dispensed withall. **L**ikewise, though Moses for the hardnesse of their harts did permit the children of Israē to put away their wiues vpon ante mislike, and to marie elswhere: yet was not the reason of the law of matrimonic, being reckoned by ciuill law to be the first law of nature, cleane taken awaie by this indulgence and dispensation giuen vnto them. **Y**et the Abstractor vpon this false position, that None can dispense for pluralitie of benefices, but he that may dispense with the reasons, wherevpon pluralitie of benefices

nesices is forbidden, doth ground as absurd a reason to
 proue, that none can dispense with the reasons of such pro-
 hibition, as that is an untrue assertion; in this maner:
 None can alter or dispense with the reasons forbidding
 pluralities, but he that can alter or dispense with the law of
 nature, and the law of God: But no man can alter or dis-
 pense with the law of nature or with the law of God: Ther-
 fore none can alter or dispense with the reasons forbid-
 ding pluralities. Which argument I was content a little
 to helpe, and to frame in this forme, though he had made it
 much worse, and in diuerse respects contrarie to rules of
 Logike. For he did put a part of the *Medium* in the conclu-
 sion, where he saith, Dispense with the reasons of either of
 them; to wit, the law of nature or law of God, which is the
Medium of his syllogisme: & had put in also *Quatuor termi-*
nos. For in the one proposition he nameth The equitie of
 the law of God, & in the other, onlie The law of God. The
 consecution of his *Major* he proueth hereby, Bicause the
 reasons which forbid pluralities are taken from the law of
 nature, and the equitie of the law of God. The one part of
 his *Minor*, that No man can alter or dispense with the law
 of God, he proueth by this, Bicause the will of God is the
 onelie cause of the law of God, and his onelie will the rule
 of all iustice vndchangeable. Now concerning the forme
 of his argument, it is verie absurd, & such as anie childe of
 ten yeeres old being in the *Vniuersities*, can tell him to be
 Neither in mood nor figure, consisting wholie of negatiue
 propositions, and therefore doth no more follow than this
 argument; No man is without sense, No stone is a man,
Ergo No stone is without sense. And bicause the matter
 of this reason here by him deliuered, is one of his cheefest
 fortresses and bulwarks of this treatise by him opposed a-
 gainst Pluralities (though I persuaide my selfe, neither he
 nor anie other shall euer be able to frame a sound reason
 vpon these termes:) yet it shall not be amisse, a little to ex-
 amine also the pith of all these his last seuerall assertions,

An absurd
reason.

R.ij.

which

which he taketh as vndoubted truths.

And first, that None may dispense for pluralities, but such as may also dispense with the reasons that doe forbid them, may apparentlie be shewed to be false, by infinite positive lawes: which may be changed, abrogated, or dispensed with, though the reasons whereupon they were grounded, be not subject to such alteration or qualification, but onelie then declared, vpon some circumstances necessarilie weighed, to cease, or not to haue place in such especiall cases. * *Naturaliter obligamur ad antidora*, we are euen by nature bound to recompense one good turne with another.

*c. § consubuit.
in l. sed & si
lege. 25. ff. de
petis. hered.*

* *Xenoph. li.
1. Cyri. Sene-
ca. li. 3. de be-
neficijs. c. 6.*

* *Herodot. li. 1*

* *Arist. in
Polis.*

* In which respect amongst the Persians and Macedonians, there laie an action against him which shuld shew himselfe vnthankfull. Now considering that amongst vs, and the most nations in the world besides, such actions haue no place, but it is thought most conuenient to leaue it to the verie shamefastnesse and good nature of him that hath reaped a benefit: yet it may not therfore be said, that we haue also taken awaie the generall reason, wherevpon this law of the Persians was grounded, being the verie instinct of nature. * Amongst the Persians it was holden a dishonest thing for a man to spit; because it argued he gaue not himselfe to activitie and laudable exercise of the bodie. But we may not herevpon argue, that amongst vs, there no such thing is noted, good exercise of the bodie is condemned. For the more greivous punishment of drunkennesse, Pitacus* one of the seven wise men of Greece made a lawe, that he which should beat any man being dronker, should be much more greivously punished, than if he had done so being sober. Yet we which raise not the damages of a batterie in respect of the drunkennesse, cannot therefore be said to allow or to dispense with drunkennesse. Also for a notable reason dratone from the law of nature, whereby matrimonies are established, it was provided in Greece, that he which was not married before he were siue and twentie yeeres old, should not be capable of any inheritance

tance by discent. In the like respect thereof a diuine philosopher saith, that God would haue man to beget man, that thus there might be a continuall supplie made of those which should worship him. Neuerthelesse, those nations which in matters of matrimonie, doe yeld a continuall freedome either to marrie or not to marrie, vpon good grounds; may not therfore be said to take vpon them to dispense with the reason of such lawes, as seemed heerein more néerelie to exact that which the law of nature in some sort doth require. It is most agréable to reason, to haue children bred vp in all kind of good learning euen in their tender yéres: yet neuerthelesse we cannot * condemne Frederike the first, who throughout all Tuscia forbade, that in inferior schools nothing should be taught but Grammar and Musike, leass otherwise the tender wits should be overburdened at the first with matters of too great weight. And though vpon the reason and ground of the law of nature, yonger sonnes and daughters, as being both in like degree with the eldest sonne vnto the parents, and more vnable than he to prouide for themselves, are to succeed their father in lands and goods by the course of the ciuill law, yet retained in Germanie and manie other places, & sufficientlie confirmed by that reason of S. Paule, which we must néeds allow to be most concludent, If we be sons then are we heires: yet may not the course of the common law of England, giuing by discent all the land vnto the eldest, as most fit for the entier conseruation of the familie, and being the first fruits of his fathers strength, be accounted to impugn or dispense with the reason, ther vpon the other course is grounded: but onlie to be receiued as more fit for our common-weale, and therfore agréable to the rule of iustice as well as the other. There is no man can dispense that it may be lawfull in generall, that a man need not pate that which he hath borrowed: yet particularlie the ciuill law hath iustlie decreed, that the said reason hath no place in such, which being in their nonage, or being

*Plato.

*Lagus lib. i.

*ff. de S. C.
Macedo ff.
de minoribus

^a L. paronius
ff. de re. iudi-
cata.

^a Vide gl. in S
fed naturalia
instis. de iure
naturali.

under government of their father, doe borrow monie. Also the patrone, or maister, his father, or his child: en, if they become debtors to him whom he hath enfranchised and made free, they cannot by such a freed man be sued to paie any more of such debt, than conuenientlie they may paie, without their vtter vndoing. It were infinite to set downe those good and wholesome lawes, which being settled vpon the reasons drawne from the law of nature, are neuer thelesse vpon due consideration of circumstance restrained and abridged from their generall force, in women, young men, old men, soldiers, clerkes, scholers, husbandmen, artificers, and such like; which all to diuerse intents doe by the disposition of wholesome lawes, enioie priuileges, immunities and exemptions: and yet the reasons of the said generall lawes are thereby neither impugned, altered, dispensed with, nor released. Whereby it is withall verie euident, that this reason of his dooth not follow: Bicause the reasons forbidding pluralities are taken from the law of nature, and of God; Therefore no man can dispense with the said reasons, but he that may dispense with those two laws. For seeing a law may be vpon circumstances dispensed with or altered, whereof the generall reason or ground is not touched: whie may not in like maner the reasons against pluralities be limited and restrained, though that law, wherevpon those reasons be grounded, be no waie impeached: Which reasons against pluralities, how well they be grounded vpon the law of nature, shall also in his due place appeare. The first part of his Minor, That none may dispense with the law of God, if it be vnderstood, that such things as he hath perpetuallie and inuolablie commanded to be obserued, no man may by any authoritie omit; nor such as he hath likewise forbidden, by any man be put in practise: it is verie true and vndoubted. Yet it is as vndoubtedlie true on the other side, that manie humane actions may without spot of impietie varie, and be otherwise ruled and directed in common-weales, than

is reported by scripture in like cases to haue bene obserued. For though from the beginning it were not so, where by is signified, that it swarued from the integritie of the law of God, and puritie of nature: yet did Christ partly excuse the dispensation which Moses gaue to the Israelits for putting a waie their wiues vpon any milke. In the law of God, theft was but punished with restitution of two-fold or foure-fold, and seemeth to be much qualified, as not being so heinous a sinne in respect of adulterie: yet neuertheless our law, which punisheth the one by death, and the other too mildlie indeed, is not therefore by the word of God condemned. By the law of God confirmed againe by our sauiour Christ, all matter of controuersie was ordered according to the depositions of two or thre witnesses: notwithstanding our trialls at the common law by twelue lawfull men, being like to *Pedanei iudices* in the ciuill law, and *Pares curie* in the Feudall law, not alwaies lead by two witnesses, but sometimes by one, and sometimes by none, but onelie by violent presumptions gathered vpon the words of the witnesses, are both tolerable and lawfull. Likewise, though thre witnesses at the ciuill law doe directlie depose concerning a mans testament, yet if no more were present, the testament shall be ouerthrowne, and that with good conscience, where that law hath place: which requireth the seales of the testator, and of seauen witnesses. The like may be said of our inheritances, which descend onelie to the eldest in blood, though the aforesaid reason of S. Paule being sound, doth make all the sonnes heires, as before was touched. Concerning the other part of his *Spinor* proposition, that None can alter or dispense with the law of nature, because all naturall things are immutable: I saie first, that by this vnttrue translation of All naturall things, in stead of All lawes of nature, he hath disadvantaged greatlie his owne cause. For it is verie notozious, that not onelie all naturall things, euen the heauens themselves which doe were old as doth.

* Matth. 19.

* Exod. 22.

* Prouer. 6.

* Deut. 17.

Iohn. 8.

doth a garment, are subiect to mutabilitie ; but euen particular nature, or (as the old scholemen terme it) *Natura naturata* is inuerted and changed by manie casualities, as in production of monsters : and the naturall inclinations of manie are hydeled, and almost wholie subdued by good education, ioined with the grace of God. Euen the heathen philosopher Socrates confessed that he was by nature blockish and lecherous, as the Physiognomer had conjectured, which yet he had altered by Philosophie. But it is also requisite that we should, vpon particular discourse of sundrie lawes of nature, consider how well the Abstractor doth vnderstand this law, which he bringeth, to proue the vchangeablenesse of the law of nature. By the verie first law of nature, no man did seeke any further than to lead a priuate life, thinking it sufficient to prouide onelie for himselfe, his wife and his children, without anie care or thought taking, for anie publike or common-weale. This appeareth by * Aristotle, who concludeth the first and simplest societie and communitie by nature, within the straits of a mans owne familie. Of that time an ancient * poet speaking, saith thus :

* Aristot. li. 1.
Polit. c. 1.
* Lucretius
li. 5.

*Nec commune bonum poterant spectare, nec vllus
Moribus inter se scibant nec legibus uti,
Quod cuiq; obrulerat praeda fortuna, ferebat
Sponte sua, sibi quisq; valere & viuere doctus.*

Whereof the wise and famous poet Homer giueth also an example of a naturall course of life in the Cyclopes, where * he saith (as he is translated verie well :)

*Soli habitant : nihil hos aliena negotia tangunt,
Vxori tantum & natis, ius dicere docti.*

Now, how farre we, and almost the sayagest Barbarians that liue vpon the face of the earth, are altered and changed from this solitarie priuate life, and are reduced to intertaine the common-weale and publike benefit of our countrie, euen with hazard and losse of our owne life, and
of

of all that is otherwise most deare vnto vs: we haue experience by the daillie examples of valiant resolute men, and of good subiects in all ages. Which kind of prodigalitie, and profusion (if I may so terme it) of our owne blood, and incolumitie in regard of the publike-weale of our countrie, is greatlie differing from that instinct, whereby euerie man is naturallie lead by all meanes possible, to preferue himselfe from all bodilie dangers. Likewise the naturall bond and coniunction of man and * woman by ** L. i. §. i. ius n-
triale ff. de
iustitia.* matrimonie, as Vlpian doth terme it, hath bene subiect to changes, euen by the * appointment of the diuine law-gi-
** Matth. 19.*
uer Moses: yea, and moreouer vpon the necessitie of the circumstances therein considerable (least that unkind people should miserablie torment their wiues which they hated) is not condemned simplie in Moses by our sauour Christ. But if we will affirme, as humane writers doe teach, that the first and simplest times of nature had no certeine mariages, nor knew no children in certieintie, till people had drawne themselves into common societies one with another; and with Castrensis, that the coniuncti- on of man and woman is of the law of nature, the bond of matrimonie with one certeine woman of the law of nati- ons, and the solemnities about marriage to be of the posi- tive law of euerie seuerall commonweale: then is the law of nature herein greatlie (though iustlie) changed and re- strained by the prohibitions of marriage in certeine de- grees of affinitie and consanguinitie first set * downe a-
** Leuit. 18.*
mongst the people of God, and afterward by the light of reason, amongst most nations (though heathen) interfei- ned. Yea, if matrimonie be of the law of nature, then is the naturall libertie thereof verie much abridged, by such
** Instit. de
nuptijs. §. 1.
* Tull. li. 2. de
natu. deo-
rum. l. libero-
rum. 220. §.*
* wholesome ciuill lawes, which make it oherwise no mar- riage in those, who are vnder their fathers tuition, except their expresse assent be first obtained therevnto. * Another branch of the law of nature, is that care of perpetuities which is ingrafted in man: which because it cannot be at-
teined

*ult. ff. de ver.
signific.*

^a *Matth. 19.
I. Cor. 7.*

^b *L. isti qui-
dem §. ult. ff.
quod metus
causa.*

^c *Plut. arc. in
Theseo.*

^d *L. propone-
batur ff. de
iudicijs.*

^e *Tull. li. 3.
offic.*

^f *Li. 3. ca. 22.*

teined vnto in himselfe onlie, he seeketh it naturallie, part-
lie by consecrating vpon due desert, his name to immor-
talitie, but much more by substituting (as it were) his chil-
dren in his owne place: which may flourish when he is in
decaie, and in whome he may seeme being dead, in some
sort as it were to liue againe. And yet it is not unlawfull,
no not in termes of diuinitie, for ^a a man that can con-
teine, to lead a sole and a single life. And that this is a kind
of naturall expectation in parents, as it were to were
young and to liue againe in their children, it may hereby be
gathered; bicause ^b diuers do much lesse esteeme their owne
life, than the life of their children. And euen as by the dispu-
tation of philosophers, and decision of lawyers it is found,
that the ^c ship wherein Theseus was carried into Candie
to subdue the monstrous Minotaure, being for a memorie
all of that act, so long kept by the Atheniens, that by conti-
nuall repairing of it, no one planke or peece of timber was
left, which it had in the time of Theseus; yet was ^d to be
accompted the same ship: and as we are to be accompted
the same people which we were two hundred yeares ago,
though no one of that age doe now remaine: euen so by the
continuall succession of our issue one after another, we
seeme to be often borne againe, and thereby to enioy a
kind of immortallitie. The next bud of the law of nature,
is the defense & education of our children, both bicause of
their weakenesse, which is such, that if we should but denie
our helpe to anie other (though far more strange vnto vs
than they are) being in like case, we should breake that ^e law
of nature, which commandeth man to doe good to man, e-
uen in that respect that he is a man: and also bicause they
are a part of our selues, to the propugnation and bringing
vp of whome, we are taught by the liuelie examples euen
of sundrie dumbe creatures. ^f Birdes (saith Lactantius) al-
most of all sorts haue a kind of coupling in mariage, and
they defend their nests as their mariage beds; they loue
their brood whereof they are certaine: and if ye put vnto
them

them anie other than their owne, they driue them awaie.
 Beasts also, for the rearing by of their yong, will abide
 hunger and cold : and will not be afraid to endure grie-
 uous blowes and wounds in their defense. So that where
 Euripides saith, ἄποσι δ' αἰθερώποισι ἡ ψυχὴ τέκνα, * Apol-
 lonius dooth iustlie reprehend him, in that he should haue
 better said, ἄποσι ὃ ζῶοισι : bicause not to men alone,
 but to all other liuing creatures, their issue is vnto them as
 deare as their owne life. Neuerthelesse, we see by dailie
 experience how much this care of parents ouer their chil-
 dzen, not without good reason altereth and decaieeth, when
 the childzen are of that strength and discretion, that they
 may well inough prouide for themselves. In which respect
 emancipation of childzen being growen to yeares, was
 also deuised. Another part of the law of nature consisteth
 partlie in the repelling of danger and iniurie from vs, and
 partlie also in the iust reuenge thereof. And although some
 interpretozs of the ciuill law, being deceiued by the order
 set downe, doe attribute the repelling of force to the law of
 nations : yet * Gratian directlie dooth make it of the law of
 nature. It appeareth so to be by that which * Plinie saith of
 beasts : There is none of them, but if violence be offered,
 he hath anger in him, and a mind impatient of iniurie, yea
 and a great forwardnesse to defend himselfe when you
 hurt him, ἐνδοι καὶν μύρμηκι χολῇ. And * Tullie affirmeth
 this to be no written law which we haue learned, but which
 we haue drauone euen from nature it selfe. So dooth the
 * law also decide this matter of repelling of iniurie and
 defense of our selues, agreeable to that which * Tullie (else-
 where) to the same purpose noteth. Who in the same booke
 likewise affirmeth, that it is a chiefe office of iustice to hurt
 no man, except we be prouoked first by iniuries : and this
 reuenge of iniuries dependeth also and is strengthened by
 that law of nature, which willet vs to yeld to euerie man
 that which is his owne : which is done by benefiting the
 good, and punishing the bad ; least impunitie should entise
 them

* Philostrat.
 lib. 2. c. 9.

* Dist. 2. c. ius
 naturale.
 * In proemio.
 lib. 7.

* Pro Mi-
 lone.

* L. 3. ut vim
 ff. de iust.
 * Lib. 1. offic.

*Plutarch. li.
de profectu
morum.

*Lucreti. li. 5.

them and others to offend. And that this is naturall, we may gather by the like instinct in all beasts. For the which cause * Brasidas being bitten by the hand with a mouse, did obserue this, that there was no beast so little, which would not seeke to reuenge himselfe being prouoked: in which * respect it is said:

*Sentit enim vim quisque suam, qua possit abuti.
Cornua nata prius vitulo quam frontibus extant,
Illis iratus petit, atq; insensus inurget.*

*L. I. C. vn-
de vi.

*L. verbis le-
gis. 120. ff. de
ver. signifi.

Yet notwithstanding, vpon iust occasions, men being wearie to become their owne reuengers, and not able to retaine a meane in reuengement, thought it best at last to runne to the remedie of lawes for the punishment of wrong and violence, as that poet in the same booke testifieth. Vpon which occasion, though the lawes doe still permit (according to the first law of nature) a iust defense of our selues, yet doe * they inhibit all violence offensive, and reuenge of iniurie to be vsed by vs: for the which cause Baldus calleth that moderation of defense the triacle of those lawes, which doe permit the repelling of force and iniurie, with the like. Also that law of nature concerning the succession of children in the goods and lands of their parents, being reckoned by Gratian, and reported to be a law of nature in sundrie places of the ciuill lawes, is no lesse than the rest encountred, changed, and abridged vpon diuerse occasions by good and necessarie positive lawes of seuerall nations. By the * law of the Twelue tables (which continued for manie yeares together) the fathers (without any cause) might disinherit their children. In England it is prouided, that the inheritance onelie shall discend vnto the eldest sonne; and yet may the father also by sundrie meanes cut off all his children and kindred from the enjoyment of his lands and goods, if he be so hardlie disposed. And both by the ciuill law and common law, if the father doe commit treason, his children are deuested of his lands, and by

by the one of them made incapable also, to take anie lands by discent from another. Another lawe of nature, which is reckoned by Gratian, is, the common dominion of all goods and lands, without anie distinction of proprietie to this or that man: by reason that the fruits of the earth in that scarcitie of men in the beginning was enough, and more than sufficient for euerie one. But Gratian seemeth to misname the matter something, where he affirmeth the possession of things then to haue bene common. Which as it could not possibly be, so is it certaine that none without iniurie and breach of the lawe of nature, might inuade the possession of that, which another had first taken vp for his owne vse, so long as he would so imploie it. Except we will with Castrensis extend this communitie onelie to vnmoueables, as land; and not to moueables: because such did fall to his share onelie, which first did occupie them, as he is of opinion. Yet not long after, and euer since, as well vpon further increase of people in the world, as for the auoiding of contention, and for some punishment of such as otherwise by violence would haue liued idelie vpon other mens labours: it was thought meet by generall good liking of all nations, to bound out the dominions of euerie man in seuerall proprietie: which course, all the ciuill nations in the world at this date doe inuiolable and lawfullie practise, notwithstanding the first law of nature were to the contrarie. The next lawe of nature to these, is, * that libertie and freedome, wherein we are all borne, and thereby a man may do what he list, so long as he offendeth not. In which * respect the law saith, that bondage and seruitude is contrarie to the right and lawe of nature. Neuerthelesse it is verie notozious, how from time to time it hath bene vsuall, to keepe such in bondage for their punishment, who either themselves, or whose ancestors had bene taken in warre, and saued from death, the danger whereof they had incurred: and it is yet amongst all nations (sauiug in France) yea euen in manie places

* L. manumissiones. ff. de in flit.

* Insti. de iure naturali §. ius autem gentium.

7. Se
tion.
usa.
arre
nfi.
had
e to
rie
e in
se,
be
ble
ght
we
es,
on
he
re,
se
gi
tw
th
ill
c-
as
co
be
ill
to
ne
u
f
e.
e
s
e,
d
t

of the Abstract.

Pag. 257.

That we *cught not to be enriched with another mans de-
triment. Which second rule *Accursius maketh to be also a
bond of naturall equitie, though in that respect he be (in
mine opinion) not iustlie reprehended by Castrensis and
Iason. Yet it is easie to consider, how diuerslie the lawes of
sundrie nations haue altered and changed these rules and
lawes of nature. For besides that both by the Ciuill, and
the law of this land, a bare compact or promise doth giue
none action, bicause no man is hurt by such breach of pro-
mise: the said lawes doe also suffer without punishment,
that in contracts men may freeleie one circumuent & go be-
yond another: but the Ciuill law restraineth it thus, so that
he be not deceiued about halfe in halfe in the price. In which
respect *Seneca wiselie saith: Who is he, which professeth
himselfe innocent of all breach of lawes? Yet if it were so,
what a slender integritie is this, to be onelie good accord-
ing to lawe? For how much more is the rule of required
duties larger than the rules of lawe? How manie more
things dooth pietie, humanitie, liberalitie, iustice, and good
meaning require of vs, which are out of the publike tables
of law? Naie, we cannot possible conforme our selues to
that most exact rule of innocencie. For we haue doone, we
haue thought, we haue wished, we haue fauoured matters
differing from it: and we are perhaps innocent in some
things, onelie bicause it hath not fallen out according to
our desire. Also by *our owne law these rules of the right
of nature are manifoldlie crossed and altered. As if a man
kill another with my sword, I shall leese my sword. If my
horse straiue awaile, and I doe not heare of the proclamati-
ons, whereby I may challenge him, I shall leese him with-
out any default of mine after a yeare and a daie. If my
ship make wrecke within a little of the land, and all liuing
things therein perish, though within thre houres after by
the ebbing of the sea, all my goods may be come by vpon
the drie land; yet I shall leese them, and they are all come
to the hands of the Quene, or of hir Highnes patentees:

S. j.

which

* *nam hoc
natura ff. de
cond. indeb.
In l. i. ff. de
pactis.*

* *Seneca li. 2.
de ira. cap. 27.
& seq.*

Doctor and
student.
cap. 51.

^a C. de nau-
frag. l. 1. lib.
11.

^b Arist. lib. 5.
Ethic. cap. 7.

^c L. ius ciuile
ff. de iustitia.

^d Gl. in ver-
bo. sed natu-
ralia. in l. i. de
iure natu-
rali.

^e In dist. 5.

which in shew seemeth not onlie contrarie to the said rules of ^a nature and reason, but also to these principles, That a man ought not to ad affliction to the afflicted, nor punish a man double, though it were for an offense, nor to take awaie that which is a mans owne without either fact or fault of his. Therefore vpon the premisses we may conclude, that the Positiue lawes of sundrie nations doe not onelie take awaie and abridge the permission and freedome, and thereby change the law of ^b nature in those things which of themselves containe no difference of right or wrong, be- fore they be commanded (as to go ouer the wals of Rome;) but also that in manie other points the said law of nature is partlie released and enlarged, partlie abridged and re- strained, and partlie also changed and abrogated. For the ^c law saith thus, The ciuill or positiue law is that, which neither wholie dooth reseed from the law of nature or of nations, nor yet dooth wholie follow it: therefore when we ad or take from common right, then we make a peculiar or ciuil law. To our autho:rs allegation (which is now euident how well he vnderstood it) touching The vndchangablenes of the law ^d of nature, the glosse ther vpo answereth, That the said paragraph speaketh of the law of nations, as may ap- peare by those words, *Quia apud omnes gentes: & supra. eod. §. quod verò naturalis.* Yet he saith, It may be vnderstood of the primarie law of nature, from which the lawes that seeme contrarie, doe not derogate, though it be not obserued in those cases. For notwithstanding this, the law of nature remaineth good and equall. To the like effect doth ^e Ange- lus answer, The law of nature in it selfe considered is al- waies good and equall, and in *Abstracto* is vniformelie in force, but in *Concreto* it may be changed in some point. Which confirmeth that disputation afore had, that a thing may be altered or dispensed withall, whose reason is no waie *In abstracto* thereby impeached. Another doth answer to these things in another manner, saieing, That those things which are of necessitie of nature are not changed, but such

such as be by presumption in nature, as fiercenesse in a lion, gentlenesse and humanitie in a man, may be changed. A fourth man verie well learned doth reconcile the matter thus: That the law of nature cannot by positieue ciuill law be broken with that violence, which the law of nations and positieue lawes do iudge worthe of punishment: as by making it lawfull, that one might hurt another either in deed or word.

Yet in my poore conceit none of these do sufficientlie touch the point of the meaning of that rule, nor reconcile and meet with all the Instances which haue bene & might be brought to the contrarie. Which hath giuen occasion to some (whom ^a Aristotle in that respect confuteth) to thinke, that there was no right in deed or law of nature at all, but onelie in opinion: bicause they did see naturall things to be among all nations alike; as, for fire euerie where to burne: but they perceiued, lawes were not in all places vniforme. In whose discourse against them, vpon those words where he saith, Truelie amongst vs, some of those lawes, that be naturallie ingrafted, are changeable, though not all of them, I do gather for this purpose two kinds of the lawes of nature: one consisting in the distinction of right and iust things from those which are not right but brutish, which is called A law euerlasting and vndchangeable: the other is that which is occupied and referred to the vtilitie and commoditie of men, which vpon circumstances of times, persons and places, without anie derogation to nature, may be altered and changed, as shall be thought expedient. The first respecteth an holie and vpriight, the other a commodious life in vs. And out of the first do flow those three naturall ^b precepts, which without iniustice can not be broken, To liue honestlie, to hurt no man, and to giue euerie man his owne, deriued all from those heauenlie sincere rules of righteousness, Whatsoeuer you would that men should doo vnto you, that doo you vnto them: and

^a Li. 5. Ethic.
cap. 7.

^b L. iniustia.
10. ff. de iniustia & iure.

doe not that to another man, which you woulde not haue him to doe to you. Which distinction and reconciliation, though of all the other afore it seeme to me most apt, yet the instances of the deodand, of the strait Superannated, & of the wrecke vpon the sea brought out of our common lawes, and the prescription and vse-winning after a certaine time of anie moueable thing from the right owner by continuance of possession established by the Ciuill law, doe seeme to me not onelie to change and alter, but plaine-ly to thwart and contrarie euen that chiefe law of nature, consisting in the distinction of right and equitie: and so dooth the ^a law it selfe affirme of the last of these. Yet I know there is varietie of iudgements ^b amongst inter-pretors, not onelie whether it be against the law of nature, or ^c onelie besides the equitie of it; but also whether the ^d common opinion of writers be the one way or the other. So that the safest answer, and wherevpon generallie we may best relie, is this, that there is a kind of Subalternation (as the Logicians doe terme it) among the lawes of nature, whereby the superio^r and more generall may encounter and preuaile against the more particular and infe-rio^r law of nature. And therefore this being the generall voice of nature confirmed by the word of God, That we are to obey the law of our countrie, where we dwell, prou-ided for the weale of the people in publike, ^e (though per-haps against the profit and also right of some priuat men) according to that, *salus populi, suprema lex esto*, (so that in the meane time they be not contrarie to Gods euerlasting will reuealed in the written word,) we may vpon this ground lawfullie allow both of these, and of other lawes of like sort: how far soeuer they seeme vnto some, to swarne from the law of nature in some respect, though in other re-gard, they stand grounded vpon diuerse sound reasons, de-riued euen from the said founteine of nature, yet perad-venture not so neerely and immediatlie as those doe, which
sound

^a L. nam hoc
naturalis. ff. de
cond. indeb.

^b Gl. in c. ius
naturale dist.

1. Bald. in L.

ancill. C. de

foro. Az. in

summa C. pro

empto. An-

gel. & Alex.

in L. possessio.

ff. de acqui-

ren. possess.

^c Ioan. Andr.

Anch. Fran-

cus in c. pos-

seffor. de re-

gul. iuris.

^d Ioan. Andr.

ibidem. con-

tra Cagnol.

in l. iure na-

turæ. ff. de reg.

iuris.

^e L. ult. §. ult.

C. de caducis

collendis. L.

ira vulnera-

us. ff. ad leg.

Aquiliam.

found vnto the contrarie. Neither is this to be thought strange to men of skill & vnderstanding, that two diuerse principles of the law of nature, and of nations may be trulie drawn to establish contrarie things.

Having thus shewed (besides the absurd forme of that syllogisme, which is gathered vpon his discourse in this Section, and consisting all of Negatiues) the wants also and vntruths of both the propositions therof *Ex superabundanti*; I will now more briefly examine the two other syllogismes, which he hath annexed therevnto. It is euident (I hope) by that which hath bene spoken, that the Maior of his first reason is vntrue, where, vpon the perpetuities of a cause or reason of any prohibition, he would ground a necessarie continuance of that which is thervpon established. The Minor thereof is also vntrue, and to be examined in particular, when he commeth to the prooue of it. Also, That euerie law grounded vpon the reason of nature, and the equitie of the law of God is immutable, being his Maior of his second syllogisme, he would prooue by that which hath bene examined afore; to wit, That all naturall things are immutable. Which neither is of it selfe absolutelie true, but with that vnderstanding which I haue shewed; neither doth the other follow of it, if this were simple to be granted, by any coherence of reason. For the ground-wooke, and that which giueth strength to a thing, may be sure and vchangeable, when as yet that which is built therevpon may be vn Timer and subiect to mutabilities. Else we must needs establish a perpetuities in all good lawes of man without any alteration, vpon what occasion soeuer, seeing they all (though many waies diuerse among themselves) do take their foundation and reason from the immutable equitie of the law of God. His Minor of his latter reason, when he commeth to prooue it, shall likewise receiue (God willing) an answer.

8. Section. Pag.116,117.



In the verie first front of this Section, wherein he undertaketh the answer to the fallacies (as he calleth them) afore spoken of, he assumeth by his old warrant dormant, to take without pꝛofe as granted (which is verie vntꝛue and neuer can be pꝛoued)

That pluralities are prohibited by the law of nature and by the law of God : and so vpon this his owne libꝛall dealing with himself, without any further pꝛofe in this place, he denieth the Minoꝛ by him in waite of obiection set doꝛne : which assumeth Pluralities to be forbidden by the law of man alone. So that if vpon the examination and ouerthrow of his pꝛofes brought to the contrarie, it may hereafter appeare, that none other law besides the law of man dooth forbid them; then will it folloꝛw by his owne grant of the Minoꝛ, which is, Whatsoeuer is prohibited by the law of man alone, by the same law may be licenced againe, that dispensations foꝛ mo benefices may be granted lawfullie : being the verie contradictoꝛie of his chiefe position of this discourse. Where it is not also to be forgotten, that the said Maioꝛ, which here he suffereth to passe without deniall, he denied (though foolishlie) afore, when he said, The said consequence was vnneccessarie and sophistical. The rest of this Section brought foꝛ pꝛofe, that Dispensations foꝛ pluralities doo ratifie monstrous things & against nature, (which is the Minoꝛ of his second syllogisme) he pꝛoueth pꝛincipallie hereby, bicause The law against pluralities is the law of nature and of God, being the Minoꝛ as yet to be pꝛoued of his former syllogisme. Which is the most childish kind of Circuition, & begging that which is in controuersie, that euer I haue heard the most foolish wꝛangling cauiller oꝛ Sophister at anie time vse in scholes, which wanted matter, and yet was to speake *Ad elephs dram.*

Incon-
siste.

Pag.213. in
fine.

Childish
fallacie.

de pſydram, and to talke out his taſke . But if the lawe be monſtrous, what dooth he make, or how dutifullie dooth he ſpeake of thoſe which paſſed and confirmed that act?

The proſe which he taketh in hand, that Priuileges and diſpenſations are beſtowed, where ſome generall lawe is to the contrarie, is wholie needleſſe. Yet the firſt is wrong quoted, bicauſe he alledgeth a Chapter in ſteed of the gloſſe vpon the Rubrike: and the ſecond is not found at all whether he ſendeth vs, though by waie of argument it may be gathered out of that place.

9. Section. Pag. 118, 119, 120.



That which he brought a little before, to teach another to go, is here to be taught how to ſtand alone it ſelfe. For he would proue, bicauſe The reaſons of the prohibition of pluralities are taken and drawne from the lawe of nature, and from the lawe of

God, therefore pluralities are forbidden by the lawe of nature and by the law of God. Which conſecution though it hang together by no knot of reaſon, yet is it left by him without further helpe, and by none other meanes approved vnto vs, but bicauſe he himſelfe made it. But if euerie thing were to be ſaid, either commanded or forbidden by the law of nature and of God, which hath for a reaſon and cauſe, whether nere or farre off, mediate or immediate, either the one or the other: then ſhould all good and wholſome Poſitiue lawes of euerie nation vnder heauen, (all which doe iſſue primarilie from theſe ſources and fountaines) come vnder this rule, both to be vnhangeable, neither to be diſpenſed withall vpon any circumſtance whatſoeuer, according to his owne collection: and alſo the lawes of nature and of God ſhould be found to be diuerſe and repugnant to themſelues in ſeuerall nations, and in ſome points alſo contrarie one to another: which is abſurd and

execrable once to be imagined : and therefore that absurd and erronious, whereupon this is gathered . For as sundrie and different Positiue lawes may be drawne from one principle of the law of nature , or of the law of nations, (called The secundarie law of nature) according to the lesse or greater proportion and measure of the influence of it into them, and yet all of them tolerable , and to be obeyed by those , vnto whom respectiuelie they doe apperteyne : so, much more (no doubt) may repugnant Positiue lawes be grounded and established vpon seuerall Principles and Maximes of the law of nature . As may be seene by the inheritance vpon descent after the order of Common law to the eldest, by Borough-english to the yongest, and by Gavel-kind to all sonnes alike. Likewise by the losse of lands in the sonne for the fathers treason, by the course of the Common lawe, though the lands holden in Gavel-kind cannot be so forfeited . None of which lawes (though contrarie one to another) but they haue both good and sound reasons , drawne from the lawe of God and of nature, whereupon they are settled : and also may both lawfullie be retained, and vpon iust occasion in like maner be abrogated or reuersed . Out of the Ciuill law this may serue for an example hereof, that although by reason it may seeme, that any thing is fullie proued by two or three witnesses aboue all exceptions : yet vpon another reason, which is for the auoiding of all corrupt dealing in Testaments, being the last wish of the Testator, (and therefore most carefullie to be prouided for) it is by that law decided, that no ordinarie Testament shall be effectuell , which is not signed with the Testators, and with seauen, or in some cases, at the least with five witnesses hands and seales. The reason of taking oths in iudgement is drawne from an ill cause, euen that corruption of nature wherevnto we are inclined (without some strict bond to the contrarie) to deliuer vntruthes, and to supplant our neighbours. Yet the oth is a part of the seruice of God , and necessarilie in all iudgements retained

ned for deciding of controuersies betwixt man and man. The reason and principall ground of forbidding women to procure and sollicite their freends causes being absent, in iudgement, was the vnshamefast importunitie of one Calphurnia: yet we may not hereof gather, that all women, which are likewise forbidden and debarred from appearing as attozneys for other, to be of like disposition vnto hir.

And if lawes, grounded vpon reasons and principles of the law of nature and of nations, were thereby (as the Abstractor here gathereth) to be accompted of the like condition with the verie primarie lawes of nature and of nations themselues: then could it not fall out, that there might be diuerse principles and reasons of lawes about one matter, tending to contrarie ends: which yet happeneth three maner of waies. First, when of diuerse principles and reasons some one, amongst the rest, notoriouly beareth the swaie. Therefore, though the freedome of man from bondage and thaldome of slauerie, be manie waies fauoured in all good lawes, as most agreeable vnto the lawe of nature, whereby we all are freeborne: yet for auoiding of iniustice and inturie among men, it is prouided, that a debtoz maie not infranchise and manumit his villaines, if thereby his creditozs shall not find Assetz for their satisfaction. And the like to this is obserued, when as manie or more weightie reasons do swaie one waie, against few or meaner reasons of the other side. Secondarily, this happeneth, when as one reason and principle is so counterpeised with another to the contrarie, that it cannot well be decided, whether of them ought to be of more moment. As when it was doubted, whether in fauour of libertie it were better to permit a yong man, alreadie come to his owne guiding, to manumit his bondmen; or else to bind him from it, till he should attaine the settled ripenesse of xxb. yeares of age, required to other his alienations. It was by Iustinian prouided,

Feriendo

Feriendo medium, bicause of inconueniencies that appeared on both sides, that he might manumit them at the going into the xvij. yeare of his age. And this equalitie & indifferencie of principles differing as it were euenlie among themselues, is that which breedeth such great diuersitie of iudgements, and so manie controuersed opinions in law both In schooles and consistories; When men in pondering and waieing of them are distracted into diuerse opinions thereabouts. Whereof rightlie to determine, is in truth the cheefest point of maturitie and discretion that may be wished, or can be had in a notable iudge. And yet herein it oftentimes cometh to passe, that in respect of right and iustice, it is not greatlie materiall, whether the one reason or the other be allowed; bicause in regard of sundrie circumstances, reasons, and motions of a mans mind, the selfe-same thing may be diuerse waies, if not well determined of, yet at the least not vniustlie: which bicause vnskilfull men doe not vnderstand, thinking that by on euerie externall transmutation of anie matter, the inward propertie thereof is changed, and haue not learned to conceiue, that as in the sea it is not requisite, nor skilfulleth greatlie to haue all men saile iust in one line, which go for one haue or port: they doe therefore make great stirre about nothing, as some huge volumes of law (for want of consideration hereof vaine lie written) may testifie. Thirdlie when as the weight of these contrarie principles, about a matter, are neither such, that one of them may farre surmount the other; nor yet of such equalitie, but that the one shall something rebate and diminish the force of the other: whereby, that which directlie cannot be brought to passe, is by some circuition otherwise effected. As although no law of nature be to the contrarie, but I may freelie marrie him which was betrothed onelie in mariage vnto my brother, without solemnization or carnall knowledge; yet is this (in regard of a kind of externall publike honestie) not permitted by law positieue. And though reason would that a
man

man should not be damnified by anie contract, whereunto he is inueigled by guile and mal-engine, neuertheles it is thought necessarie, that he should first by sentence haue his intire restitution vnto that condition, which he was in before his circumention. And further, vpon due consideration of circumstances, euen the principles and reasons that be generall, doe often yeeld and giue place to those which be but singular, ordinarie to extraordinary, internal to external; yea, and naturall to such as be but ciuill and positieue, though by ordinarie course it be cleane contrarie. Which due pondering of circumstances is of such force, that it interpreteth oftentimes the generalitie of some lawes of God, and declareth in some especiall cases the reasons of them to cease, though they themselues in generalitie or in *Abstracto* (as others do speake) are immutable. If or though the law of God be generall, that he which sheddeth mans blood, his blood shall be shed by man; & that we should doe no murther: yet is not the magistrate or executioner of iustice vpon malefactors, nor they which in their owne iust and necessarie defense, or by chance-medlie and misaduenture doe happen to kill another, guiltie of the breach hereof, or to be punished with penaltie of death. And therefore vpon these and such like circumstances, God himselfe did dispense with their life, and appointed vnto them certeine cities of refuge, as sanctuaries to flie vnto for their safegard. So did he by Moses his seruant dispense for the hardnes of their harts with the law of th'indissoluble knot of marriage. And though by the law of God and of nations, all contractation of another mans goods without the owners consent be theft: yet is this matter so qualified and abridged (not vnlawfullie) with vs in England, that an apprentice or seruant, which carieth and imbezeleth awaye his maisters goods and wares remaining in his custodie, and vnder a certeine value, shall not be holden as a theefe, or punished as a felon. And it is euident, that exceptions doe abridge and limit the generalitie of rules, the
common

common law of the land doth reſtraine and interpret the Maximes in that law, and the ſtatutes and acts of parliament do cut off the common law. But let vs paſſe from thoſe things, which in generalitie being forbidden, haue yet their exceptions, and vpon the concurrence of ſome circumſtances, are exempted from the reaſons and generalitie of ſuch lawes. Touching his Antecedent, which is; that The reaſons of prohibiting pluralities, are drawne from the law of nature and of God: which hereby he proueth, becauſe they were forbidden For auoiding of couetouſneſſe, ambition, theft, murder of ſoules, diſſolution, and for reteining of comlineſſe and decencie in the church, it hath bene partlie ſpoken vnto, in the beginning of the examination of this treatiſe. Further, it is to be remembred, that if theſe inconueniences do but ἐπὶ το πολὺ, and for the moſt part follow the enioyeng of mo benefices by one man; or be but *cauſa προκαταρκτικαί*, or impuſiue vnto that prohibition for the ſurer auoiding of ſuch danger: then cannot anie ſound reaſon be grounded vpon them, to prohibit mo benefices to be reteined by one man: both becauſe a good man may uſe that thing well, which might be an occaſion of ſliding vnto ſome other, not ſo well ſtated: and alſo, for that the law may remaine, where the impuſiue cauſe thereof ceaſeth; and of the contrarie ſuch cauſe may be of force, when the law is abrogated. But if he will make them neceſſarie & actuall effects, ariſing as of a formall or efficient cauſe, from the reteining of mo benefices, and preſume neceſſarilie that all theſe muſt needs poſſeſſe him that inioyeth them: then ſhould this fall out to be ſo, either by reaſon of the quantitie of the ſtipend & livelihood ariſing of them, by the quantitie of ground and content of both the pariſhes, by the number of the pariſhioners of both, or by the diuiding of the auditorie, whome at ſeueral times the miniſter is to inſtruct. If the quantitie of the liuing and reuenuē do ſo neceſſarilie infect a man with theſe vices and enormities; then ſhould he haue ſet downe what

what ought to be the iust measure and standard of euerie ministers p^{er}celie reuenue, which he may not come short of, least he want sufficiencie of maintenance: nor anie waie passe or exceed, least he fall of necessitie into these damnable vices. But if there be such a tax, what may be said then of such, as albeit they haue two benefices, are yet far vnder a mediocritie: and which if they might haue six mo, of such liuings as they haue, should not yet reach vnto the value of some one benefice? Shall we saie, he which hath but one such great one, is free from this danger; and he which hath two, though neuer so little ones, shall be caught with ambition for aspiring to such an high honor, and be touched with couetousnes by the great temptation of such notable reuenues, as peradventure will not make his pot seeth twice in a weeke: Paie if these sins must necessarilie take hold of him, that hath euen two of the fattest in England, by reason of the quantitie of the reuenue of them: and if the rest of his reasons be also in this point good and effectuell, then shall the like stint of liuing, in all men, as well laie as ecclesiasticall, be simplie condemned, as being against the law of God and of nature, for feare of necessarie staining of them with ambition, couetousnes, theft, murder, dissolutenesse, & breach of order. But if the quantitie of ground, or number of the parishioners to be instructed be the efficient or formall cause of producing necessarilie such foule effects: then should he likewise haue cast out his modell of ground, and proportion of euerie flocke, which may not be exceeded: and should haue shewed vs, how farre the large parishes which we haue in sundrie places, ought to be shred off, lopped, pared, and therby reduced to the Comelines and decencie which he fantaseth. And also how this deuise may stand with theirs and his owne platforme, which would haue diuerse parishes vnited into one. And likewise, why one may not haue two parishes by the name of two, as some (by law thereunto allowed) haue at this time: as well as by the new guise and deuise,
to

to allow the same man three or foure parishes in deed, but vnited together and called but one. For the Abstractor maketh no difference in this treatise, whether the benefices doe ioine together, or be disioined by anie distance, for he indefinitlie doth condemne the hauing of mo benefices than one, howsoeuer they be situat. And here vpon it would follow that it is more meet, that all the parishioners (though in the foule and short daies of winter, how old and crasse soeuer they be) of three or foure parishes, as they be now distinguished, should take the paines to assemble themselves into one place to heare their minister, rather than he should come vnto them, and teach them at home in their parish churches, as they now doe lie in seueralltie. But if the diuiding of his auditorie, and teaching them at sundrie times, be the verie efficient or formall cause of this heape of enormities, and the onelie thing which misliketh him: then truelie (besides that it can not be proued or yet imagined, how the diuision of a mans auditorie should make the minister guiltie of such crimes) he must also likewise condemne those which doe teach and instruct seuerall families at home and apart, from the rest of the bodie of that congregation. Also we must hereby disallow all chapels of ease whersoever, some of which (as I haue credible heard) are in some places 6. 7. or eight miles distant from their parish church. And by the like reason, if all diuiding of a mans auditorie be so vnlawfull, it will follow that the minister is much to be blained, which teacheth not all his parish at one time, though in deed necessarie occasions of businesse falling out doe draw sometimes one, and sometimes another into other places abroad, and doe deteine those which be seruants verie often at home, whereby it is not possible to teach them all at once. And therefore we may conclude safelie, that the hauing of mo benefices doth not formallie or efficientlie infer anie of those faults which the Abstractor, by the misunderstanding of the canon law, would needs inforce: and that there vpon the Antecedent

recedent of his reason is to be denied. And yet further, these reasons taken (as he saith) from the law of God, whereupon the prohibition of pluralities is grounded, and those second causes of one mans enioieng the stipends of many, of his ynabilitie to discharge manie charges, of the hinderance of other from dooing good in the church, being causes (as he affirmeth vntrolie) of nature, are not simpkie and absolutelie alledged by the law (as may appeare by the discourse afoze) as things incident to any enioieng of mo benefices: but onelie then, when as the partie which so reteineth them, is not qualified sufficientlie, nor dispensed with therevnto, according as law requireth. And therefore his collection is a fond Paralogisme *παρὰ τὴν πᾶν ὡς ἀπὸ λῶς*, by taking that as simplie and indistinctlie spoken, which is limited and restrained onelie vnto certeine offenders of law in that behalfe. And he might with as great probability gather, bicause coining is by law forbidden as high treason, that those who by authoritie are therevnto appointed, doe breake that law. Or bicause such who seise into their hands fellows goods, or wreckes happening in their lordships, are vnjust men, and punishable for taking that, which belongeth onelie to hir Maiestie: that those therefore are also wrong-doeners, who enioy the same by speciall grant or priuilege from hir Highnesse or hir predecessors, in reward of theirs or their predecessors good service. But the Abstractor in effect here confesseth, that all these great crimes in the canon law, were but objected against such as reteined mo Benefices without dispensation: and therefore by the perfection that is required in vs, he would theap kindnesse of vs, that for vs to enioy more than one benefice by dispensation, is To defend all those horrible sins and impieties as tolerable by dispensation. In which respect he asketh vaineilie, Whether A dispensation from a Pope, or an Archbishop, can make theft no theft? &c. Wherein though it please him to ioine (in the poisoned canceronnesse of his malicious stomach) the pope and the Archbishop

bishop together, who is (I dare saie) as far (and that is far enough) from poperie, as the pope himselſe, either yet the Abstractor are from chriſtian modeſtie and charitie. Yet if he had but common ſenſe (which now is drowned in malice) he might haue remembred, that a diſpenſation doth not make a thing which is ſimplie vnlawfull, to be thereby lawfull; but declareth the rigor of ſome generall poſitiue law weied with all particular circumſtances, and the reaſon thereof vpon eſpeciall grounds (conſiderable in that caſe and at that time) to ceaſe, or elſe worthe to be releaſed, and to leeſe his force, as being in ſuch a caſe without the meaning of the law. And yet it is ſhewed afore, that the enozmities which he ſpeaketh of, are not by law attributed to the hauing of mo benefices ſimplie, but when they are enioied contrarie to law: nor euen then as effects neceſſarilie proceeding from pluralities, as from an efficient or formall cauſe, but as faults which may be preſumed to poſſeſſe thoſe men, which will be their owne caruers and iudges, for the inuading of manie benefices, without authoritie. Yea, and if diſpenſation for pluralitie were ſuch, as being ſtrictlie ſo called, doth releaſe the rigor and extremitie of the law poſitiue vpon fauor onlie, and not for iuſt

* Arg. l. ſed
eſi lege S.
conſulis ff. de
petis. hered. l.
i. S. & ma-
gis. verb. pro-
deg. ff. ſi quid
in fraud. pat.
l. quia autem
S. i. ff. que in
fraude cred.
iuncta. l. i.
ff. de conſtit.
princip.

* ff. & C. de
nata. reſtit.

cauſes or equitie: yet might the * prince, or thoſe to whom the law hath committed ſuch full authoritie, as in diuerſe caſes beſides, with a good conſcience diſpenſe in it, euen as well as they may giue away their owne goods, ſeeing this law is vndoubtedlie mærelie poſitiue. Like as the prince may without offense to God, pardon (after the fault committed) the life of a traſſor or fellow vpon mære grace and bountie, bicauſe the penaltie diſcendeth from law poſitiue, though he can not diſpenſe without ſinne to God, that in time to come, a man may commit treaſon or fellowie, bicauſe they are forbidden by the law of God. And ſuch pardon he may lawfullie grant (euen without anie cauſe) to one, and denie to another, as freeſlie as he may create knights, endenize, * legitimate, and reſtoze to blood whom he

he thinketh good, and refuse to impart the like grace and fa-
 nor to other. And this, if it be for a matter past, is by some
 termed an Indulgence or pardon; if for a benefit to come,
 a Dispensation; & for a present pleasure or gratification, is
 called a Privilege. There may be also good reason of gran-
 ting these, when as for some considerations it is profitable
 to grant such exemptions, besides the generall ordinarie
 course and reason of the law. For it may so fall out, that
 the saving of some condemned mans life, or granting of
 some immunitie, may no lesse benefit the common-weale
 than to keepe a rigorous hand vpon the obseruation of the
 strict points of the generall law may doe harme. For *ἀντι-
 νόμιον* must be seasoned and sweetened with *ἐπιείκεια*,
 and the exact rigor of law must sometimes be moderated
 with equitie, least it degenerat into insurie and tyrannie.
 For it is sure that as no generall rule or definition can be
 given in law, which in application to particular matters,
 shall not faile and be limited with his exceptions: so can
 there no generall rule of right or law be framed, which in
 application to all times, places & persons (whō it may con-
 cerne) shall not necessarilie require some priuileges, exem-
 ptions, dispensations, and immunities, either in regard of
 their excellencie & well deseruing; or in respect of their in-
 becillitie & weakenes, or some such like circumstance or o-
 ther. In which respect we are also taught by Aristotle, and o-
 ther wise philosophers & Politicians, that in all lawes & ad-
 ministracion of iustice; we are partlie to obserue proporti-
 on Arithmetically, consisting in recompensing an equall
 thing with his equall, which is a rule in trades, negotiation
 & traffike betwixt man & man: & partlie the proportion Ge-
 ometricall, which is conuersant in distribution of honors or
 rewards, & in inflicting of punishments, and therefore yel-
 deth forth an inequality in both, according as the persons
 deserts are different and vnequall. Whereby also we see a
 common soldiors reward to be lesse than the Lieutenants
 or Generals, & a Noblemans death not to be so rigorously

*Et in Amb.
 quibus modis
 natur. effici-
 antur legi-
 simi.*

erected, as the common sort iustlie are put vnto. And this strict and proper acceptiō of a dispensatiō, which is by releasing and exempting of a man vpon fauor, clemencie, or mercie onelie, from the seueritie of the law, the bond thereof still remaining, is called A dispensatiō of grace, and may vpon mere bountie of him that is so authorisied, be granted to some, and denied to other some, as it shall please him (euen without further cause) so long as the law is but mere positieue. But it hath no place at all in the

^a Dist. 5. in
princip. S. &
naturalia.
^b iust. de iure
natur.

^b Rom. I.

^c Bernard. li.
3. de confide-
rat. ad Euge-
nium.

^d Abb. ca. fin.
Ext. de con-
suetud.
^e Abb. c. non
est Ext. de
voto.

^f Lud. Goz.
conf. 51.
Ignorance
of the Ab-
stractor.

first ^a principles of the law of nature, nor in the comman-
dements of the Decalog, necessarilie and immediatlie
^b deriued from the rules of the light of nature. Which
thing because the pope most insolentlie tooke vpon him to
do, he is therefore iustlie by all which do aright feare God,
abhorred as Antichrist, which in the Luciferian pride of his
hart, hath hereby climed into the throne of God, and doth
arrogate to himselfe to loose the consciences of those whom
God hath tied by his law, and to bind that (as by a diuine
law) which God himselfe hath set at libertie, which ^c Ber-
nard calleth a dissipation rather than a dispensatiō. Which
dispensations of his, though some scholemen, and of our
late more manerlie papists do otherwise qualifie in
words, and partlie denie such matters which he hath dis-
pensed with, to be of the law of nature, when as neuerthe-
lesse no colour can be laied, but that they are of the prohibi-
tue morall law of God: yet his parasites the canonists,
who both knew his mind, and his practise herein suffici-
entlie well, and were neuer (that I could read) found fault
with for their ouer broad speeches about this matter, do
fullie declare what blasphemous authoritie he challenged.
They saie that the law ^d of nature vpon cause may be ta-
ken awaie: ^e that the pope vpon cause may dispense with
the law of God; ^f that the dispensing with the law of God
is proper to the Bishop of Rome. Yet the Abstractor the-
weth here his great skill, when he pretendeth that the cano-
nists & popes chapleins do attribute vnto him authoritie
to

to dispense in such matters, by reason of *Meriam imperium*, a souereigne & supreme power in him, which indeed is nothing but *Ius gladij*, the power ouer the life of men, which the ordinances of France doe call *Haute iustice*. There is another kind of Dispensation called of Iustice: which is, when vpon some especiall circumstances, the reason and rigor of the generall law is by him which hath authoritie, declared in some case to cease, and the stricteesse of the words of the law therein not to bind or to haue place, and that for auoiding of iniurie and inconuenience. And this is also an allaiue of extremitie of law by an equitie, which afore I spake of, and which the magistrate in iustice cannot denie; and is in that respect called A dispensation of iustice, as it were an interpretation or declaration of the true meaning of the law *Iuxta equum & bonum*. For a lawe is established with regard to that which for the most part is good: and because it happeneth in some cases not to be good, it was meet there should be some to declare and determine, that in such a case it was not of necessitie to be kept. Likewise in this sense of dispensation, the same autho^r as he is ^h al^s ledged, dooth define that it is, *Commensuratio communis ad singula*, an admesurement or attemperance of a generall vnto his particular or singular circumstances, or as some doe read it, an attemperance of reason. For he rightlie may be saidⁱ to interpret law, which declareth whether the matter in-hand is included in the said law or no. An example hereof, where Gods law is in this sort interpreted and declared not to haue place, euen by the positue lawes of men, may be taken from the commandment of God, that we shall not kill: which is truelie declared not to haue place, where in necessarie defense of our selues, we are driuen to kill, rather than be killed vniu^slie. In the lawe of nature, the generall and most vsuall reason requireth, that vpon request made, I should redeliuer that which in trust you haue recommended to my custodie: yet some most iust reasons and considerations may¹ fall out, why this should

E.g.

be

⁶ Thom. 2. 2.
q. 88. art. 10.

^h Dom. Sotus
de iust. & iur.
re. li. 1. q. 7.
art. 3.

ⁱ L. fin. C. de
legib. c. cum
venissent.
Ext. de indi-
cys.

^k L. vi. v^m.
ff. de iust.
& iure.

¹ L. bona fides
ff. de positi.
Plato li. 1.
Polis.

*Offic. li. 3.

be denied at some time. And therefore* Tullie speaking hereof saith, that Manie things which naturallie are honest, vpon some occasions are vn honest. In most countries they haue a positive law, that a man should not carrie out of the realme any monie, armour, or weapons: yet such occasions & vrgent causes may happen, that in iustice a man may not be denied to doe this, whom the prince will haue to trauell into some dangerous countrie. And of this sort of dispensations (or declarations of the meaning of law) or mixt of them both, are all such, which the Archbishop of Canturburie by act of parlement is authorized to passe, as may appeare, in that he is limited onlie to those dispensations, which be not against the word of God or lawes of the land, and for the most part also to those which vsuallie haue bene granted: and in that, the qualities of the persons also, to whom in some cases he is to grant it, are expessed: and lastlie, because if he doe denie to dispense with him which is qualified therevnto, and hath need of a dispensation, without a sufficient cause, and doe so persist; this authoritie may be deriued by that act of parlement vnto others. So that we see, in effect he is onlie made a iudge herein, to examine and wey the inward qualities and sufficiencie of the suter for the dispensation, whom if he find fit, and a good cause in equitie to warrant it, he cannot in iustice put him off, but must grant the dispensation vnto him. And that none of such dispensations, faculties, or immunities, which are vsuallie passed according to law by the Archbishop of Canturburie, are of that sort, which be either by the law of God forbidden, or yet such as may not haue a necessarie vse, so that without manie inconueniences they cannot wholie be abolished, may appeare to the wise, who can consider of their senerall vses vpon rehearsall onelie of them: and shall be defended (God willing) by learning and sound reason so to be, against the other sort, which are factuonslie bent against them. As a benefice *In commendam* to a Bishop, who hath a slender maintenance by his Bishoprike, a

triall:

trialitie for a prebend or dignitie, being no cure of soules by statute with two benefices hauing cure of soules; or a pluralitie for two such benefices, to such as excell the common sort in Gods good gifts. For take alwaie inequality of reward, and no place will be left to indenuour for any excellencie in learning of one aboue another, in verie short time. A legitimatation of him to be preferred to holie orders, who was borne out of lawfull matrinionie, or before espousals; or for a man to succed his father in a benefice, either in respect of the great and excellent gifts in them, or vpon some other weightie considerations. A dispensation for one aboue eightene, and not xxiij. to reteine a prebend being without cure of soules, though he cannot be assumed to be a deacon. A dispensation for some notable man employed in his Maiesties seruice at home or abroad, to reteine for his better maintenance, a dignitie ecclesiasticall, or a prebend of like nature, without his residence in that church, or entring into orders, which is not fit to be made generall to all, which haue not like occasions. The dispensation for non residence is verie sildome or neuer granted: yet the recouerie of a mans health, mortall enmitie of some in his parish against him, employment in some necessarie seruice or publike calling, being of as great or greater vtilitie to the church and common-wealth, may be sufficient inducements in equitie to grant it, for a time. The dispensation of *Perinde valere* may haue a necessarie vse, where no right is growne to another person, for a man that hath incurred ecclesiasticall censures, or is made vncapable by law, either to reteine or receiue an ecclesiasticall benefice, as by misaduenture occasioning the death of a man, violating the interdiction, suspension, or excommunication of the church vnadvisedlie, or by succedding his father in a benefice, and such like a number. In like maner manie necessarie occasions may happen, whie a man should be licenced to be ordeined at some other Bishops hands, than where he either dwelleth

or was borne, or to be ordered deacon and minister both at one time, or to solemnize matrimonie, though the banes haue not bene thise publikelie asked in the church, or to eat flesh on daies appointed by politike constitutions for fish daies, or to abolish the infamie or irregularitie of some profitable man in the church, growne by law against him, vpon ignorance, simplicitie, or want of due consideration, without wilfull contempt. Besides this, the statute of 25. H. 8. doth not alone endow the Archbishop with dispensing, but to grant rescripts in diuerse needfull cases; namelie, for creation of publike notaries, and to grant tutories for the lawfull and indifferent hearing of such, as are by iniurie (vpon some great displeasure conceived) too rigorously and violently handled and sought, by an inferior Ordinarie. But it may perhaps be said, that if to ground such a Dispensation of iustice, a iust cause be required; then the reason of the lawe in that case ceaseth, and thereby, the law also ceaseth therein, so that a dispensation is not needfull. To which I answer, that albeit the reason of the law do cease and take no place in that particular action, yet in so much that the reason ceaseth not in generall, nor in most vsuall actions,* therefore the lawe cannot be said to cease, but must haue some (for auoiding of inconuenience) to declare such particular cases to be out of the generall reason and meaning of the lawe, which in other points shall remaine in his profitable force still. For such lawes as haue a continuall reason, and whose end is common and vniuersall, do not cease, though in some spectall case, their intended end doth not hold. And therefore, though fasts are commanded for the bydling of our vntamed flesh, yet* such also in whome this reason holdeth not, shall be tied by the generalitie of this lawe, till a magistrate therevnto authorized, shall declare him to be out of the reason and reach of this law. But it is* not so in those lawes, whose reason is but directed to some particular end onelie, as is the law of brotherlie correction, which atonellie

* *Cle. ad nostr.*
de heret. c. &
si Christus,
Ext. de iure-
iurando.

* *Cle. ad nostr.*
d. Thom. quod
l. 19. ar. 15.

* *Io. a Medi-*
na de con-
traf. q. 14.

tending to his reformation, doth wholie cease (without any further dispensation) where no amendment can be hoped for, and the partie is become vncoꝛrigible. So that to his question I answer, that no earthlie authoritie whatsoeuer, may or can by Dispensation or otherwise, make that which is theft, no theft, or dispense with any other lawe of God, or pꝛimarie law of nature, in such sort; as that they should loose, which he hath bound: bicause the law of God containeth those * things which are determined by GOD himselfe, not onelie in a generall forme of iustice, but also in particular actions, and therefore can be, by none dispensed with by relaxation of the bond thereof, but onelie by himselfe. And yet those * that be in authoritie, may declare and interpret the law of God and of nature. As that law of God & of nature, which saith, Thou shalt not steale, is and lawfullie may be, by godlie positieue lawes declared not* to reach or extend vnto him, which being compelled by extreame hunger, doth take awaie another mans gods onelie to eat, and to pꝛeserue his life thereby. These things I haue made bold vpon presumed patience thus to enlarge, for the better euidence of the Abstractors great malice, but slender skill: and to giue light both to that which hath beene afore spoken, and to that also which vpon sundrie occasions is yet to be deliuered, as being loth often to be forced to speake of one matter, not opened aforehand. But now he telleth vs Of a law of Antichrist, which Christians must impugne by mainteining the lawe of Christ against it. If he speake thus (as it must needs be taken) of that lawe, which in some cases alloweth a man to reteine mo benefices, which in this treatise he seeketh to pꝛoue an Vnlawfull law, and here (as it seemeth) calleth the law of Antichrist: trulie for his Pateſties sake, and the whole parlement which reuiued it, being first made in the daies of that renoumed Prince king Henrie, after he had abandoned the vsurped Romish power, & after ward practised in the reigne of the vertuous king Edward: it might

¶ iij.

haue

*Thom. I. 2. q
100. ar. 3.

*c. maiores,
Ext. de bap-
tismo c. per
venerabilem
Ext. qui filij
sunt legit.

*Si quis prop.
necessitatem,
Ext. de furis.

Andutifull
and vnrue-
rend spea-
ches.

haue pleased him to haue giuen it a more mild and a better terme. But these tempestuous and furious melancholike spirits, whome Gualter calleth the Donatists of our time, doe esteeme no benefites receiued at hir Maiesties hands worth grauermercie, (seeing they thus make hir Highnesse lawes the Lawes of antichrist) onelie because they cannot be suffered to establishe a souereigne and popelike church-gouernment in euerie parish, which may tyrannize ouer the Prince hir selfe, without controllement. The places which he here quoteth apart, as though they serued to the confirmation of the seuerall parts of his talke, doe indeed tend all one waie, to shew the lawlesse and vnbounded authoritie, which is challenged by the pope. Which speeches, though it be true that by some canonists they are attributed vnto him; yet none of these three glosses doe speake expresse either of his Absolute power on earth, or of making somthing of nothing, or of sinne to be no sinne. Therefore this is a sinne (as the old prouerbe saith) thus to lie of the diuell, or of his eldest sonne the pope. Yea, the last of the three, rather restraineth that authoritie which the other doe attribute vnto him, and setteth downe; that In vowes he is said not to dispense, but to declare and interpret: because it is thus commanded by scripture, Vow and performe your vowes to God. The second place is wrong quoted, for it ought to haue bene: *Glossa in verbo fiat c. le. for dist. 34.* That which is here vnto annexed, That a priuilege or priuate law must haue all the properties of a generall law, and that a dispensation is but a fiction in law, is least by him as void of proofe, as it is of it selfe void of truth: for it is not possible that euerie priuilege or Dispensation of grace onelie, should tend to the benefit of the whole common-wealth, * though a Dispensation of iustice may in some sort so tend: or if it be But a fiction of law, that it should haue those adiuncts and qualities which are required in a publike law. And * Rebuff. whence indeed he borrowed it, doth not saie, that the dispensation is a Fiction of law, but that

* Thom. 1. 2. q.
97. art. 3. &
Io. And. in c.
de multa Ext.
de preb.

* Rebuff. in. 61
de dispens. ad
plura benef.

that He which vpon cause is dispensed with, shall be reputed in law as able, lawfull and fit, by fiction of law, by reason of his dispensation. And it is sufficient sometimes to establish a privilege or dispensation, if an inconuenience be but thereby* auoided, which otherwise would happen, and so if it profit but a verie little, it shall be sustained. The law which he bringeth out of the* Code, to proue that It is all one in effect to enioy a benefit by privilege or by common right, proueth nothing directlie, but that such children, whom the prince hath set free from their fathers power, shall not be admitted to enioy their parts in their fathers substance, without this collation or putting as it were so much amongst them all of their owne goods in hotch pot, as they are seuerallie to receiue of their fathers: euen as well as those children must doe, which were not so emancipate, but by their father himselfe. The reason of which decision is, lest the princes fauour and grace in freeing some from their fathers power, should be drawne and extended to the iniurie and damage of others. And it might haue better bene brought in argument, to proue that he which enioyeth a benefice by dispensation, as to the effect of obseruing publike lawes (incident to be practised in his ministrie) is no more free than others. Yet I will admit, that by waie of argument it may also proue the effect of that, which is done by privilege, and of that which is done by common right sometime to be alike: but hereof or by the former, it will not follow, that a privilege or dispensation must haue all the necessarie adiuncts of a generall law, which is his purpose. And it is worth the obseruing, that because Rebuff. hath an allegation out of Decius, immediatlie following the place by him alledged, he quoted therefore in his margine *Dec. l. liberos*, as though it were the tenth law of that title. Neither is it true that euerie publike law must necessarilie Tend to the honour of God, and to the peace and safetie of the realme: for there are manie lawes, which are referred and doe tend to the benefit

*c. non potest
in fine prob.
in. 6.
*L. liberos
Cod. de collationibus.

nessit and profit of the common-weale, as for assise of bread and ale and other victuals, for currieng of leather, and true making of clothes, &c: which are not referred either to the advancement of the honoꝝ of God, oꝝ safetie of the realme, otherwise than as all particular lawfull actions, whatsoeuer of any man, may be referred to them.

10. Section. Pag. 120. 121, 122, 123, 124.



Here this man full of singulartie, yet but a single soled singular man, will shew (if he can) how Pluralitie men do beguile themselves with an euident and palpable fallacie, in handling thereof he moileth and laboureth, to roll by Sisyphus stone, which still tumbleth downe vpon himselfe againe: and like him whome the old Satyre would not dwell with, he bloweth both hot and cold, affirming that which before he had denied; yet he plaiceth otherwise, as much vpon the advantage, as so bad a defense had need of. For to giue vnto his discourse some lustre and colour of probabilitie, he will not vse the name of Parishes but of Churches: and because some thing incident to this disputation, may be spoken of establishing, which can not be verified of distinguishing churches; and of vniting, which can not be of taking awaie, he speaketh of these copulatiuelie, and so maketh a fallacie *A pluribus interrogationibus vt vna.* The argument which he frameth for pluralitie men, because they (forsooth) could not doe it skilfullie, and after dooth skirmish with, it will not be amisse to set downe, together with his forces vsed against it: Whatsoeuer is established (saith he) by man alone, the same may be taken awaie, and vnited by man alone: But churches (that is to saie) congregations of the Lords people; pastors of these assemblies, and the liuings for the pastors of these assemblies, were established and distinguished by man alone: Therefore churches, pastors, and liuings

A fallacie.

liuings for pastors, may be taken awaie, and vnited by man alone. The Minor hereof he denieth as false vpon the equivocation of the word churches, which hath in all three acceptations: whereof two he saith doe make the said proposition false. The first signification of that word with him, is, Congregations and assemblies of people, which hereby he proueth, not To be established and distinguished by man alone, because the Lord hath willed all his people to gather & assemble themselves together, to th' intent they shuld call vpon his name; & because it is impossible for al the people to

An absurd reasoning.

This reason may serue to proue, that God establisheth assemblies, and that there must of necessarie consequence be distinction and diuision of assemblies: but it can not be racked to giue anie testimonie, that either the maner thereof, the number of people, or the quantitie of ground is prescribed, and as it were troden out by God, which is the point of the issue. Yea, the * Abstractor himselfe confesseth, that Where the congregation is too great, it is lawfull to make it lesse, and where it is too little, to make it greater: and wisheth * this to be reformed, which may not be done,

*Pag. 124.

(as he himselfe afore reasoneth) if this distinction of assemblies which we haue, had bene made by God. And he might as well gather, because God hath appointed a distinction in proprietie of lands and goods to be retained amongst men, that therefore God hath distinguished, buttred, bounded, and meared out euerie mans manors and lands as they lie in seueraltie from others, and hath likewise made this allotment and proportion of goods which euerie seuerall man enioieth. And then may we blot out of the register, the writ *De perambulatione facienda*, and condemne all their indevours, which by honest meanes seeke the increase of their substance. And yet notwithstanding this his loose reasoning, he descendeth boldlie from hence to an vncharitable and Pharisaicall inuective, (which is an usuall vsemaking of their generall doctrines) condemning all pluralities

*Pag. 122.

ralitie men, for Little preaching, for wearines of well doo-
ing, and respect to grease themselves with the fat of the
peoples labour. It is well he leaueth vnto them some
preaching, whereas his clients (for the most part) doe but
speake; (for so they themselves doe terme it not vnproper-
lie;) and some well dooing: which some like himselfe can ne-
uer be wearie of, bicause they vse well dooing and well
speaking, both in one measure. But his saints of his own
canonizing, may not in anie case be touched with fatting
their purses with other mens labours: yea, though they
should laie their mony to vsurie, which is holden with some
of them scarce for a *Peccadillo*: or though they should, besides
the reuenues and fruits of their liuings allotted to them,
haue a *Comorth* and contribution yearely made for them,
which serueth for a fee to hire them, to speake nothing vnto
their good maisters and dames, but *Placentia*: which is best
compassed with all such as haue itching eares, by bold bra-
sen inuectiues, against authoritie and against the present
state of the church, and by keeping deepe silence of all vsu-
rie, circumuention, ingrossing, false wares, inclosures of
commons, monopolies, extortions and oppressions: for
these be biles, which may not be handled, if they mind to
haue anie more of their custome. But the Abstractor let-
teth also this hold go, bicause it is too slipperie, & dooth gesse
that by churches in the former reason, we will vnder-
stand liuings of churches, which he inforceth not to haue
beene established and distinguished by man alone, bicause
God hath ordeined that they which preach the gospel,
should liue of the gospel. Wherein lurketh a double fallac-
cie, first vpon ioining by a copulatiue, both establishing
and distinguishing in one yoke together: whereas though
God did thereby establish, that pastors should haue liuings,
yet did he not distinguish them how they should be vsed in
seueralties one from another. Secondlie, in that he co-
uertlie intendeth quantities, rates, and proportions of se-
uerall liuings to haue beene by God established, bicause
he

A fallacie,
à pluribus
interrog. ut
vna.

he ordeined that his miniffers fhould haue maintenance, albeit there be great difference betwixt liuing and quantitie of liuing: for Rebuff. whence he borrowed it, applieth not the place of S.Paule as he doth, but to proue, that the benefit is giuen for the dutie. But if he meant not to implice thus much, then hath he the leffe colour a great deale againft pluralities: for he that doth prouide two feuerall benefices for them, where one is not fufficient, doth more fullie fatisfie the ordinance of God, to make them thus more able To liue of the gofpell. Yea, and that it was his meaning to proue, that liuings for miniffers were diftinguifhed by God (though he deliuer it but fearefullie and inconfiftantlie, as commonlie fuch doe which openlie auouch an vntruth knowne euen to their owne confcience,) thefe his * words doe make it manifelt: Manie liuings (faith he) *Pag.121. appointed by the Lord himfelfe for manie paftors, ouer manie congregations, fhould not be taken from manie, and giuen to one. To which end alfo is that example, which he bringeth concerning the diuifion of the promifed land of Canaan. Which moft groffe abfurditie and paradox, neuer auouched by anie either old or late writer (I thinke) till this melancholike Snapftraw peeped out by owle-light; may be cleerelie refelled euen by his owne words, wryng out from him by the force of truth: to wit, * That liuings of *Ibid. churches and parifhes are diftinguifhed by man, and therefore may be vnited by man, in fome fenfe may be true. Nay, I would faine learne in what fenfe it can be otherwife: and in what fignification did he himfelfe fpeake elſewhere, when as he * faith: It is lawfull for man to take a- *Pag.124. waie, & to vnite churches & liuings. For if this be lawfull, then hath not God, whoſe ordinance muſt be inuiolable, either eſtabliſhed anie tare and certeine quantitie of a miniffers liuing, or yet diftinguifhed and feuered the liuings of churches one from another. But in caſe God hath allotted a certeine rate of liuing for a miniſter, it were well it might be made manifelt vnto vs hereafter by the
Abstractor,

Abstractor, or by some other daepe Cabalist, with sound
 pꝛofes annexed to strengthen it. Yet he taketh this as ve-
 rie sufficientlie pꝛoued to be Gods ordinance, and there-
 fore in effect saith; It is no more lawfull now to giue vnto
 one minister that liuing which was appointed to diuerse,
 than it had bene for Ioshua to haue altered that diuision
 of the land of Canaan, which the Lord had commanded by
 Moses. But when he or anie man else can pꝛoue, that God
 hath appointed and distinguished out the bounds and li-
 mits of parishes, and the rates of church-livings, as he
 expꝛesslie bounded the tribes in the land of Canaan, then
 will I saie the comparison is equall: yet seeing it was of
 temporall lands, it would more fitlie serue for limits of
 manors and lordships, than of parishes. But the compa-
 rison is far vnlike: for he will not denie (I hope) but that
 manie laie fees and temporall lordships may be possessed
 by some one, which yet he denieth to ecclesiasticall men,
 though perhaps their desert and contribution to the pub-
 like charges of the realme be as great as theirs, who en-
 ioi in true value ten times as much reuennue. And yet e-
 uery seuerall mans inheritance was not diuided by Mo-
 ses or Ioshua, but the Lord pꝛescribed the bounds of the
 tribes, and the lot decided the rest. For yet was the distri-
 bution so settled, but that one of the same tribe might enioi
 by purchase another mans possession till the yeare of Iubi-
 le: and diuerse mens inheritances might by discent be
 cast vnto the next in bloud. And his ignorance or negli-
 gence is herein more palpable than he can pꝛoue to be in
 the Pluralists fallacie, in that he saith, Moses ^a gaue vnto
 some more and to some lesse, whereas in deed it was diui-
 ded by lot. Also ^b Moses neuer came ouer Iordan, but did
 onlie take a view of the land a far off from the mountaine
 of Nebum. Neither was he or Ioshua appointed *Decem-*
pede, or the verie diuiders of it, but ^c others from the
 Lord were therevnto nominated. Insomuch that it is ex-
 pꝛesslie set ^d downe, that Moses made no distribution, but
 vpon

^a Num. 33.

vers. 54.

^b Deut. 34.^c Num. 34.vers. 17. &
deinceps.^d Ioshua. 13.

vers. 7 & 8.

vpon the east side of Iordan to the tribe of Ruben, Gad,
 and the halfe tribe of Manasseh: and all the * rest of the
 land was diuided onelie by the direction of Ioshua: how
 best vpon the distribution of this land, so skilfullie (as you
 see) by him handled, he taketh occasion by similitude
 of a botching tailor, and a pilfering companion, to make
 himselfe merie, rather than to patch by anie good reason.
 For his resemblance is so far from shew of likelihood, that
 it well becommeth such a deepe reasoner. For the theft of
 Caius can not anie waie proue, that Seius garment is too
 long wasted: and therefore his reason smelleth of the shop-
 board more than of the deske. But his wish herevpon is,
 whereas Some (according to his audit-booke) haue two or
 three thousand pounds, and some neuer a whit: that is,
 (asse he sole wiselie doth interpret) scarce twentie nobles
 by yeare, that there might be set downe a better equali-
 tie. Cruelie, if he had wished by some good meanes a
 competencie of liuing for euerie minister, it had bene a
 good and godlie wish: but to desire an equalitie, where
 the duties and gifts required are so different; it is con-
 trarie to the rule of iustice, which *In mandandis honoribus,*
& discernendis pœnis, doth follow the proportion Geome-
 tricall, and not his proposition Anabaptistickall (I should
 saie) proportion Arithmetickall. For with as good rea-
 son he might inforce an equalitie of livings in tempo-
 rall men, as in ecclesiastickall: considering both the ex-
 cellencie of the subiect and matter, whereabout the eccle-
 siastickall are conuersant, and also as great inequalitye of
 one aboue another, and difference of learning, and all o-
 ther Gods good gifts to be shewed in the gouerning and
 instructing of the people in matter of religion, as may be
 found by any possibilitie in the dexteritie of one man more
 than of another in managing by counsell, or defending
 by prowesse the ciuill affaires and frontiers of a common-
 wealth. Which thing, the slender sparkes of the light of
 nature remaining, did teach euen vnto the Gentiles: who
 were

*Ioshua. 14.

15. & deim-

ceps.

were content to aduance their religious persons amongst them vnto singular honoꝛ, to respect them with large and bountifull maintenance, and to haue their bests and aduise in notable recommendation. The *Minor* of his owne syllogisme being the verie contradictorie of the *Minor* afore propounded by waie of obiection, he seeketh yet better to vnderprop (as he had need) not against such onelie, as are Disposed to cauill, but those also that must denie as true, both his *Minor*, the Antecedent, and also Consecuti-
on, whereby he would proue it. For he would proue Churches to be established and distinguished by the Lord himselfe, because Though the limits of parishes be bordered by man, and that a certeine number of people, called to make one congregation, and to heare at one time, in one place, one certeine pastor, be at the rule and disposition of man: yet that these things should be thus done, is the speciall commandement of the Lord. As if he should saie, Though it be so, yet it is not so. For how doth this follow: God hath commanded Churches to be established and distinguished, *Ergo* he did establish and distinguish them: more than these like reasons? God commanded there should be places comelie and decent for holie assemblies, *Ergo* he himselfe built all our faire churches. Or, God commanded euerie man to get his liuing by the sweat of his owne browes, *Ergo* God getteth euerie mans liuing by the sweat of his owne browes. Yet would I also gladlie learne, where this Speciall commandement vnto men, for the Bordering out of their parishes, and for a certeine number of people to be called to heare one certeine pastor, may be found: But I will take that which he here yeldeth and proue thereby (contrarie to his intent) that the law of man may yeld seuerall congregations vnto one pastor: Whosoever hath the rule and disposition of bordering out parishes, of calling a certeine number of people to heare at one time, in one place, one certeine pastor, and may lawfullie take awaie and vnite churches and liuings where they

they be too little, and diuide them where they be too great : he may as lawfullie assigne the like or greater number of people to heare one man at severall times, and in severall places : (which is that which is called pluralitie) bicause of the partie of reason, *Quia contrariorum eadem est scientia* : But man * (as the Abstractor here confesseth) hath the rule and disposition hereof, and may lawfullie doo the one: Therefore man may lawfullie doo the other, and consequentlie grant a pluralitie . But he seemeth to reason against this, which he saith must needs follow of his owne assertion, by an allusion from a naturall bodie, in which it were monstrous to haue one head set vpon two bodies, and that therefore it is as vnfitting a thing in a politike bodie, and consequentlie for one sheepeheard to haue manie flocks. But if this be the onelie fault, then let him call both the flocks but one, as to this intent and purpose : yet none can be ignorant, how slender reasons such allusions be, and what infinite absurdities would follow, if we should vnge a conformitie in all points betwixt a naturall and a politike bodie . For then were it also a monstrous thing, for one king to rule ouer two severall and distinguished kingdoms : and when the king (who is the head) dieth, the common-wealth also should decaye withall . But that the distinction of parishes is indeed onelie of the meere positive lawe of man, besides that which the Abstractor himselfe yeldeth, whose confession must needs be strong against himselfe : it may appeare by Platina, who setteth downe in that Bishop of Rome his time, they were first distinguished . And therefore a famous Canonist * saith : Though Bishoprikes and prouinces were diuided before Christes time, yet parishes were afterward diuided : So that vpon god * cause, and with consent required, one parish may lawfullie be diuided into two parishes by the Bishop. And Rebuff. who hath furnished out our author with all his stuffe of this treatise, and therefore may not be by him refused, being by him selfe produced a witnesse, telleth vs :

Pag. 123. 124

* Abb. in rub. de Paroch.

* Gl. in c. 1. di. 10. & in c. nulli dist. 93.

Abb. in c. an. diem. Ext. de eccl. ad. fin. Card. c. a. uariis in fin. de prob.

U. s.

that

* 13. q. 1. c. 1.
Panor. in c.
olim Ext. de
consuetud.

* Gl. in verbo
aut in electa
c. nec. mome-
rum. 10. q. 3.

that although it be a part of the law of nature and of God, to haue a lining allotted for the ministerie and doing of the office, yet * Benefices are brought in by law positue, and therefore about them dispensations are tolerable. And the glosse * saith, that diocesses or parishes were distinguished by Dionysius. Whereupon in like maner may be gathered, that it is lawfull (vpon iust cause especiallie, and the vtilitie of the church so requiring) to permit vnto one sufficient man two seuerall parishes: bicause otherwise they were not able perhaps seuerallie to mainteine a man of qualitie: and for the scarcitie of such men in regard of the seuerall parishes in England, they should be but slenderlie furnished though with two, yet both perhaps more insufficient men by manie degrees.

II. Section. Pag. 124, 125.



In this section he labourereth to ouerthrow the dispensations for mo benefices, by the definition of a dispensation. Which is not available, being done by anie besides Him that hath authoritie: which the Archbishop of Canturburie (he saith) cannot haue, though the act of parlement haue so enabled him: bicause he Being a man, may not dispense with the positue lawes of man against pluralities, which are all grounded either vpon the law of nature, or vpon the law of God: and therefore the one must be as immutable as the other. In effect thus much, neither the makers of the act being men could yeld, nor he receiue any such authoritie. But what is this else, but plainlie to derogate all authoritie from the parlement, and from all other states whome soeuer of establishing any lawes: For it is certeine, there is no good lawe can be deuised, being lawfull to be obserued, that hath not his ground (either neere or farre off) from the lawe of God and of nature. And if herevpon it might be gathered, that

that they which are grounded and deriued from thence are
 subiect no more to mutabilitie than the lawes of God:
 then should it not be lawfull for hir Maiestie to take to
 hir selfe felons goods and traitors lands, from the children
 of the malefactor, for whome he had prouided them. For it
 is the law of God and of nature, for parents to prouide
 for their children. Upon the commandements against
 murther and theft, are these secundarie lawes drawne;
 that he which committeth such offenses, shall suffer the pe-
 naltie of death. Which penaltie neuerthelesse, the prince
 doth and may lawfullie pardon, bicause they are but posi-
 tiue lawes, shewing in what maner such crimes shall be
 punished, and are prouided for the benefit of the common-
 weale to ensue, by cutting alwaie such vnprofitable mem-
 bers, and by terrifieng others thereby from offending. And
 yet in some especiall case the common-weale may receiue
 more damage and hurt by the taking alwaie of some men,
 who may happen in that maner to offend, than it can re-
 ceiue profit by their death. Upon which or like equanimi-
 tie, the people of Israell importuned and obtained in sort at
 Sauls hands, the pardon of Ionathas his sonne, who had of-
 fended the law positivie, and might as iustlie haue bene ex-
 ecuted, as he was lawfullie pardoned. And yet was that
 law grounded of the law of God, which vnder the name of
 parents, do command vs generallie to obeie all our supe-
 rious and their lawes, not repugning to his everlasting
 will. The two last places that are quoted, one out of the
 glosse, and the other out of the text, speake no one word of
 the restraining of the Popes power in dispensing with the
 law of nature or of God, for the which they are brought.
 Againe, it might be answered as afore, that the lawe for-
 bidding pluralities, doth not thereby take away dispensa-
 tions for them; for if there were no prohibition, there nee-
 ded no dispensation: also that those vices which are forbid-
 den by the law of nature and of God, are no necessarie ef-
 fects of enioieng a pluralitie, that such dispensation taketh

The Abstra-
 ct deroga-
 teth from hir
 Maiesties
 prerogatiue,
 and the com-
 mon law.

more portion of Iustice, than of Grace, and therefore is not much different from a declaration, that the generall lawe against pluralities in such a mans case, doth or may verie well cease. And lastlie, that if these were of the lawe of God and of nature, yet they might be declared and interpreted, how farre they reach and do bind, though indeed the bonds of the lawes of God and nature remaining, they may not be (by anie but God himselfe) released. And therefore this reason, that such authoritie cannot be yelded to the Archbishop, is manie waies casilie overblowne by the grounds of that which hath bene afore deliuered.

12. Section. Pag. 125, 126, 127.



H which in all this treatise goeth about to proue Dispensations for manie benefices vnlawfull, as though either there were no lawe to warrant them by canon or statute, doth here tell vs of certeine Defects in the qualitie of the person to be dispensed with, which are iust causes in law to frustrate and make void euerie dispensation. If he had said euerie such dispensation, it had bene more probable, whereby will follow, if those defects and such like be the onelie causes which make void by lawe a dispensation, then where no such defect (nor any other by lawe set downe) can be found; that the dispensation shall be lawfull: and so he hath, like the euill seruant, condemned himselfe by his owne mouth. For *Exceptio firmat regulam in casibus non exceptis*, as hath been alledged in the former treatise. And if all this which he speaketh here, concerning the qualities of the person to be dispensed with, and the causes inducing dispensation were granted: can he thereby gather dispensations for mo benefices to be vnlawfull? Cruellic he must first presume without proue, and against all reason, that all or the most of these are neglected in granting dispensations, before the

the other will follow. But euen here he standeth vpon an vn-
 sure ground, and deliuereth that which is not true. For
 he saith that A man qualified and in all respects capable of
 a dispensation, may not enioy the same without iust cause
 warranted by lawe. Whereas his owne autho^r Rebuff. doth
 teach him, that amongst diuerse causes to induce a
 dispensation, the excellencie of prerogative and quali-
 ties of the person, as knowledge and nobilitie of birth, are
 of the first and chiefe causes thereof: not that both these
 must necessarilie concurre and ioine in euerie seuerall
 person, but that either of them by canon (especiallie lear-
 ning) may suffice. In which respect * Panormitane saith:
 Note it well, that learned men are matched here with no-
 blemen or gentlemen by birth. And so the church ought to
 honour learned personages not onlie in word but in deed,
 as in prouiding more liberallie to helpe and releue them
 by the churches reuenues, than for others not so learned.
 And this is the reason hereof, bicause learning doth not
 onelie profit the owner, but also the vniuersall church. For
 the world cannot be gouerned without learned men, as it
 is to be scene *Auth. habita C. ne filius pro patre*. And another
 law saith, that the vniuersall church requireth greatlie lear-
 ned men for the better gouerning of it. *C. cum ex eo. de elect.*
 in 6. And the said autho^r in another * place plainelie deci-
 deth, that the prerogative and qualities of the person, is a
 sufficient reason wherevpon to ground this dispensation.
 Where the text. *c. innotuit, Ext de elect.* saith, That for the pre-
 rogative of the person, he may be postulated, it is to be no-
 ted that the onelie excellencie of deserts is sufficient to in-
 duce the prince (or him that hath authoritie) to dispense,
 although the necessitie of the church or euident vtilitie doo
 not concurre therewith. Neither doth this Canon saie,
 that all those qualities there reckoned, must necessarilie
 concur in euerie dispensation: for then should it be requi-
 site also, that some about him which dispenseth, should haue
 knowne the partie at schole or in the vniuersities. Neither

* Rebuff. de
 disp. ad plura.
 nu. 43.

* In c. de mul-
 ta Ext. de
 prebend. vis.
 notab.

* Panormis.
 in c. innotuit
 Ext. de elect.
 in 6, notab.

yet doth any thing by him brought in this place, giue any pretext or resemblance to disanull a dispensation for him, in whom these qualities shall not be found, as the Abstractor gathereth, before any such matter be scattered.

13. Section. Pag. 127, 128, 129.



He Abstractor cannot inforce vpon these wordes, When reason shall require, a dispensation may be granted, that therefore not onelie the qualities requisite, but some cause besides them must concur: because it is shewed before, that the qualities of the person to be dispensed with, is of it selfe a cause sufficient therevnto. The next place to this, which he quoteth, is impertinent to this purpose of dispensation for pluralitie, and onelie speaketh of a iust cause of commutation of a voto; and so doth the other chapter which he saith, is so Plaine and eident. For the decision there, is, that Forsomuch as the cause wherevpon the vow was vndertaken, did cease, therefore the vow it selfe being the effect, might the more easilie cease, and be conuerted into other godlie exercises: so far is it from prooue, that There must be some speciall cause knowne, for the which euerie dispensation is to be granted, to the which purpose it is brought. And he hauing no better proued than you haue heard, that there must be good and iust cause of a dispensation; doth euen as slenderlie shew that those causes be.

For the decision of that chapter, which to that end he quoteth, is not so, that Vrgent necessitie and eident vtilitie of the church are causes of granting these dispensations which we speake of: but that for those causes the pope did tolerate one to continue Archbishop of Capua, which was chosen therevnto, though his learning were not exquisite, but onelie competent. The foure examples of dispensations which he laieth downe grounded vpon causes sufficient, & by

by him borrowed out of the canon law, cannot by any possibility proue that which he intends, that no dispensation whatsoever in any case may be granted, but vpon cause; and much lesse that Vrgent necessitie and euident vtilitie, be those causes and the onlie causes of all dispensations, (for his owne author Rebuff. reckoneth foure causes of this dispensation.) But yet that these causes (as he gathereth) doe signifie nothing else, but The well gouerning of the soules of the people. But it is not to be omitted, that the Abstractor here contrarie to himselfe afore alloweth of dispensations with such lawes, whose reasons are grounded vpon the law of nature or of God; yea, euen to dispense with that, which is Vnlawfullie taken, onlie by colour of an Vnreasonable custome beeing void in lawe.

Contrarie
tie to him-
selfe.

First, the refusall to receiue monks to cure of soules, who (as an ancient father saith) had *officium plangentium, non decentium*, were to mooue not to teach, and were in those daies méere laie men, or the refusall of any other laie man whomsoever, is grounded vpon that scripture, Let no man minister but he that is lawfullie called, as was Aaron: and let him not be a yong scholar. Yet I must put the Abstractor in mind, that he mistaketh the matter, when he thinketh that such had dispensation for the Gouvernement of a church with cure of soules, they remaining still laie men.

Ignorance
in the Ab-
stractor.

For *Ex laico* and *Ex monacho* doe onlie signifie that it was against the generall canons, suddenlie without great cause to prefer such from méere laie men to the order of the ministerie, and so to a Bishopricke, or other cure of soules, before they had serued as clerks in other inferior orders and ministrations. For by the opinion of Fisher, euen at the common lawe an act of parlement cannot inable a laie man so remaining to become a parson of a church, because it is a matter méere spirituall: although the parlement (as Vauisoure thinketh) may take order in such spirituall matters as are mixt with temporall causes. Likewise the prohibition of ordering the sonne of a professed

*21.H.7.3.

nonne, is grounde upon those canons of integritie required in all ecclesiasticall men which are set downe by S. Paule, which is greatlie blemished and stained by the fault of such parents. As for that generall asseueration, which without all prooue or weighing of any circumstances, he bleseth against all intopeng of mo benefices, as simplie unprofitable at all times to the church, when he shall deliuer his prooves of it, shall either be answered or yelded unto, and in the meane time is as easilie reiecte, as it is by him boldlie auouched. But although it did not carrie with it an vrgent necessitie or euident vtilitie of the church, yet hereof it doth not follow, that a dispensation to that end is vnlawfull. Bicause he can neuer proue them to be onlie causes of that dispensation: for that the law rehearseth diuerse other causes of dispensations in generall, and they are gathered by the glosse vpon that verie canon, which in this section he alledgeth. A dispensation is granted (saith the* glosse) when necessitie or vtilitie requirereth *Infra. eo. tali.* Also sometimes a dispensation is granted, bicause a greater euill is feared, in which respect the Englishmen were dispensed with 35. q. 3. c. *quadam lex s. quod scripsi.* Also sometimes for some good to insue, as when we dispense with heretikes, that other may more easilie returne to the church, 23. q. 4. c. *ipsa pietas.* Also sometimes for the multitude and for auoiding of offense, c. *ut constitueretur.* 50. dist. And the same canon rehearseth other considerations and inducements to dispense: as mercie, pietie in the person, the circumstances of time, and the euent of the matter. In somuch* that another glosse doth thus gather: When as rigor and extremitie is of one part, and mercie of the other, the iudge ought rather to follow mercie. c. 2. *Extra. de sortileg. & l. placuit C. de iudic.* So that it seemeth a dispensation is a due, bicause the precept of mercie is common to all, c. *non satis* 86. dist. Which I grant that indeed sometimes it is due, & the iudge should offend, which in that case would not dispense, though no law be set downe wherby we may demand

* *Glin verb.*
vs plerisque
in fine l. q. c.
requiritur.

Glin verb.
causa c. exigens.
l. q. 7.

demand a dispensation. But because both schoolmen and some few lawyers, who handle this matter, doe varie diuerslie one from another, and confusedlie speake concerning the causes of dispensations, I doe take it worth the labor, vpon due weighing of all their reasons and allegations, to reduce them thus briefly to an harmonie. In Dispensations of mere Grace and fauor, which are such as the prince may lawfullie gratifie one man in, and denie vnto another, as are indenizations, legitimations, pardoning or remitting the penalties for faults not verie heinous: there is not anie ^a necessitie, either in court of conscience, or in the ciuill court of man to the dispenser or dispensed, that they should proceed vpon anie cause moze than of mere bountie of the soueraigne prince, who onelie hath this authoritie; seeing it is to be intended, that the people and lawes of euery countrie, in these and other small matters haue yeelded this ^b power vnto their soueraigne princes. But touching those Dispensations, which are called of Iustice, they are conuerfant either about the law of God and nature, or about the positive law of man. In the lawes of God and nature there is no relaxation of the bond of them, (which none but God himselfe may doe) yet there may be vpon good grounds a declaration and interpretation, that the generalitie of the words doe not in deed extend to some especiall cases. As although Gods law doe indefinitelie require credit to be giuen to two witnesses: yet is this generalitie, by mans law rightlie declared not to haue ^c place, where such two witnesses are but children, and haue not attained the yeares of discretion, to accept of an oth. By the law of God it is commanded, that he that killeth, should himselfe be done to death: yet ^d is this truelie interpreted not to haue place, where a man killeth in his owne necessarie defense. Yea, not onelie in the defense of his person, is this thought not vnlawfull, but ^e also in the defense of his goods: although ^f some other, not so truelie, doe hold in this case the contrarie. The generall

com

^a L. 1. ff. de
constit. prin-
cip. 11. Au-
thent. quibus
mod. nasser.
efficiatur le-
gis. Et qui-
bus modis. sui
Et C. de sen-
tentia passis.
^b Arg. l. scio.
ff. de minori-
bus.

^c c. relatum.
1. Et c. cum
esses. Ex. de
testamentis.
§. 1. In f. d.

^d L. v. vim.
ff. de inst. Et
iure Et ibi gl.
Et DD.

^e Iason. in d.
l. qui dicis et
esse comes. Et
Diaz. reg.

597.

^f Felni. c. 2.
Ex. de homi-
cidio.

commandement of absteyning from labor in the obserua-
tion of the sabaoth, is declared by our sauour Christ, not
to bind nor to haue place in the priests occupied about the
sacrifices in the temple, nor in the necessarie works of
christian charitie, neither did reach vnto those Iewes who
were forced by their enemies (watching the opportunitie of
that time) to fight and defend themselves from violence e-
uen vpon that day. And it is in ^a some cases euen by mans
law, not wronglie declared to cease. The precept of obe-
ing our parents, is aright interpreted to haue no ^b place
where the father commandeth anie vnlawfull or dishonest
thing. The commandement of keeping our oth is not so
generall, but that it is ^c declared rightlie to cease, where it
should otherwise bind vs to performe an vnlawfull thing.
And although by the law of God and of nature ^d euerie
man is bozne free, according to that of the Psalmist; Thou
hast subdued all things vnder his feet: yet hath the law ^e of
nations not vngodlie attempered this, and declared bon-
dage vpon good occasions to be lawfull: least otherwise
those which be ouercome in warre, should without mercie
be put to the sword. For S. Paule saith: Art thou bond?
seeke not to be loosed. By the law of nature and of nati-
ons, traffike betwixt man and man ought to be free: yet
hath law positue ^f iustlie declared the said law in some
cases to cease. It is of the law of nature, to haue him cal-
led and cited to be present at anie act, who may be interes-
sed or prejudiced thereby: yet the souereigne prince vpon
good cause, vsing that right which is in him, although it
may indrectlie turne to the harme of another, may ^g in-
franchise another mans bondslaue, the maister not being
called. By which examples it appeareth, that albeit princes,
and other iudges, who are all inferior to the law of God
and of nature, cannot dispense with them vpon anie cause
by releasing the bond of them: yet vpon good and suffici-
ent grounds in such cases as be euidentlie of that nature,
which by most strong arguments we may gather that God
himselfe

^a L. omnes C. de ferijs.

^b L. Lucius ff. de condit. & demonstr. L. nepos. ff. de verb. signif. L. filius ff. de cond. insti. l. reprehende- da. C. de insti. & subst. & ibi. DD.

^c L. non dubi- um C. de legi- bus l. fin. C. de non numer. pecu. c. non est obligator de reg. iuris in 6.

^d L. manu- missiones ff. de iustitia & iure. insti. de iure perso- narum.

^e Ibidem.

^f C. ne Iudeus Christi. man- cipium l. in- ter stipulan- tes ff. de verb. oblig. §. sacra & ibi. DD.

^g Gl. in l. an- sep. ff. ex qui- bus causis maior. quam dicis com. ap- probari Fe- ty. c. eccles. Ext. de con- fessio.

himselfe would not haue included in the generalitie of his law, interpretation, declaration, and limitation may be made of them. And this is one kind of ^a dispensation of iustice, largelie so called, whereby the bond of the law is not released, but the law is interpreted in such case not to haue place according to the true meaning of it. But yet with this moderation, that we neuer so intend and presume for the sufficiency of the causes, whereupon such declaration of the law of God and of nature is supposed to be grounded: but that for stopping of a dangerous step vnto tyrannie and blasphemie, proves to the contrarie must alwaies be admitted, if anie may be brought. Now, in that other member of Dispensations of iustice, more properlie so called, which are bestowed about the positie lawes of man, we haue to obserue two seuerall varieties. One is, when the generall force and obligation of the law remaining, yet the reason thereof in some particular case doth cease, which may and ought to be by the souereigne prince or other inferiour iudge so declared. Another is, when as the law is grounded vpon diuerse reasons. For then, though one or two of such reasons do cease, yet in regard of those reasons thereof, which do remaine, the law shall still reteine his force. Nay, though the positie law of man be enuious, as ^b was *Lex Papia*, verie ^c grienous and hard, or such as the reason thereof is wholie ceased, yet shall the disposition and life of it continue, and howsoever the execution thereof perhaps may be intermitted, yet is not the law thereby taken awaie and extinguished, but is ^d onelie *Sopira* (as it were) laid asleepe for a time. So that if the like necessitie happen, for the which such a law was first established, it shall reuise againe without anie new enacting, which it ^e could not do if it were wholie extinguished. For otherwise, if euerie private man might take vpon him to decide, when and how the reason of his superiours law doth wholie cease, and that thereby the law might be said to be extinguished and abrogated; which kind of interpretation

^a Decius cōf. 112. & in c. que in ecclesiasticum Ext. de confirmationibus.

^b L. unica. C. de caducis tollend.

^c L. prosperis ff. qui & a quibus.

^d L. unica in principio. C. de caduc. tollend.

^e L. inter stipulantem & sacram. ff. de ver. oblig.

** L. fin. C. de
legibus.*

interpretation * doth onlie belong to the souereigne prince,
or to such as he committeth it vnto: then verelie in this
last case, there should need no dispensation, though (in the
meane time) such libertie would breed a great confusion,
and an open contempt of all lawes. Howbeit I haue de-
clared already, that wheresoeuer the generall law doth re-
maine, though in some particular case it do cease: that
there (as in the other cases here alledged) this Dispensa-
tion is needfull, and ought not in right to be denied; for the
which cause it is also called, A dispensation of iustice. Be-
sides these, there is a third kind of dispensation mixt of
both: as taking some part of that which is called Of grace,
because he that hath authoritie to dispense hereby, is not in
waie of iustice precisely compellable to grant it: and bor-
rowing other some part of that, which is called Of iustice,
because this ought not to be granted simplie, but vpon iust
cause: by reason that the positive lawes of man, about
which onelie this dispensation is conuersant by common
intendement, are enacted for some publike vtilitie and be-
nefit. So that without good ground, a man ought not to be
exempted from the generall charge of the common-wealth,
which other are to susteine: specially when such his exemp-
tion shall be burdensome to others. This last sort of dispen-
sations may be defined to be A release in some especiall
case and certeine persons of the generall bond, and reason
of a positive law, by him that hath authoritie therevnto.
And this authoritie must either be committed expresselie, or
is couertlie implied to be attributed vnto a souereigne
prince: either by the operation of the law, as when * such
souereigne is the lawgiuer himselfe; or by presumed in-
tention, that they which made the law, meant to yeld
power of dispensing with the rigor and extremitie of it vn-
to him in all * such cases, as by likelihood and probabilitie
they themselues would haue dispensed with, if they had
bene in particularitie opened and recounted vnto them, at
the first establishing of it. But an inferiour, vnto whom
anie

** L. d. C. de le-
gibus.*

** Arg. ex gl.
S. final. sale
pactum ff. de
pactis.*

anie such authoritie is expresselie (yet without full power and authoritie) committed, is to follow in all points the direction of his commission, or where the same is defectiue, the common positive law concerning the ruling and guiding of such dispensations.

And this same presumed intention of the meaning of the lawemakers, is the most proper cause that (in my iudgement) can be assigned generallie of euerie dispensation of this qualitie and condition. Now, when ^a a soueraigne prince doth dispense with any positive law of man, the lawe teacheth vs to intend and presume, both that there is a cause why he should so do; and that the same cause is iust and sufficient: insomuch that ^b no proofe to the contrarie of this presumption may be admitted as some do hold: but if he do dispense with such a law of man as hath some necessarie and neere coherence with the law of God or of nature, as (for example sake we may assigne lawes for distribution of almes and other beneficence to the poore, godlie bequests and deuises of the dead vnto good vses) without a good and sufficient cause in deed: though both the dispenser, and he which is dispensed with in vsing of it, do in the inward court of conscience and before God offend, yet neuerthelesse that verie relaxation of the bond thereof, being onlie of man, shall stand so farre forth good and effectually, as that the acts which by vertue thereof are done, shall be in the court of man available, and not to be impugned. Wea by the opinion of some verie well learned, such acts done shall be of force ^d euen in the inward court of a mans soule and conscience. For example where of they bring a dispensation granted without any cause, for the mainteining and strengthening of a clandestine matrimonie contracted: which is condemned iustlie by the law of man, vpon verie good and pittie reasons. And howe soeuer both the parties themselves (saie they) haue offended therein, first in so contracting, & then in vsing a dispensation, vpon no iust ground: and he also that shall condescend

^a c. si quis cul-
passu. 23. q.

1. c. in pres. de
renunciat. gl.
in c. ad aures
de temp. ord.

in c. 2. de
maior. & o-
bed. Cynus,
& Bart. in l.

fin. C. Si con-
tra ius vel
iur. Fely. nu.
60. Dec. nu.

24. in c. que
in eccle. Exr.
de constitut.

^b Anchor
conf. 288.
Fulgof. conf.
143.

Loares pag.
371.
^c Fely. vs su-
pra. nu. 6.

Bart. post. gl.
in l. delegati
ff. de panis.

^d Syluest. ver.
Papa que. 15

^a Fortun. in l.
Gallus S. &
quid si tantū
ff. de l. & post.

^b Innoc. in c.
cum ad mo-
nasterium de
statu regula-
rium, & in c.
dudū 2. Ext.
de electio.
^c Fely. in c.
que in ecclesi-
arum Ext. de
constitut. gl.
& DD. in l.
relegati ff. de
penis. & est
com. opinio
Loazes in loco
citato.

^d Ber. in c. non
est, Ext. de
voto. Thom. 1.
2. q. 97. ar. 4.
^e Gl. in ver.
excecrabilis
Ext. excecrab.
de prebend.
Fely. c. ad au-
dientiam 2.
de rescriptis.
Gigas de pen-
si. q. 6. nu. 13.

pend to dispense with it, being moued with no good reason thereunto: yet the matrimonie shall be of force, and the issue thereof is in both courts legitimate. And whereas ^a some doe seeme to be of contrarie opinion here in, which thinke such a dispensation granted without cause, not to enable any act to be of force, which is done by vertue thereof: their opinion is thought not to be sound, except it be vnderstood of an inferiour that shall by commission haue a limited and not full authoritie from the soueraigne to dispense, ^b because such a dispensation from him cannot be of any validitie either in the one court or the other, except it be warranted as proceeding vpon some good cause. For we are not by law to presume and intend for the goodnesse and sufficiencie of the ^c cause for any dispensation, passed by an inferiour not endowd with full power and authoritie, vnlesse it doe so appeare indeed. Now, on the other side, if he that hath authoritie (be he soueraigne or inferiour) doe grant a dispensation without any reasonable cause, about such a law as is mærelie positue, and hauing none immediate or nèere relation vnto the law of God or of nature: then, albeit he in so dispensing ^d doth offend (by breaking that right and equabilitie of the law intended to publish like good, and which is common to all) in fauour of one, yea and that without any iust cause of preheminence to him aboue other: yet he that bleth such dispensation (especiallie if it be without greuous offense giuen, and direct damage of others) doth not ^e offend against a good conscience, but may lawfullie inioy it, because he is by the same authoritie deliuered from the bond of that law, by the which he stood bound, as is euident in the verie matter of pluralitie and dispensation which we haue in hand.


And according to these distinctions are all those things to be vnderstood, which to like purpose (here and there in this treatise) as occasion was or shall be offered, are by me vttered: whereby the grounds and causes whereupon all dispensations and exemptions may lawfullie and safely be granted

Section
in
e

granted and vsed, according to the more sound opinion of the best learned lawyers and scholemen, may partlie I hope with some plainnesse be discovered. But if it should be asked in which degree and sort of these three dispensations, those for pluralities, which by statute of the realme are committed to the Archbishop of Canturburie, ought to be placed: Truelie in consideration that both they and other dispensations by him to be granted are there so bounded for the matters themselves, and for the persons, though not for the maner of proceeding, & are so exacted of him to passe them where iust cause appeareth, that if he shall refuse to dispense, then this power and authoritie giuen by the whole church and the realme to him, shall be deuolued ouer to others: I cannot see, but that they are to be reckoned either amongst those Dispensations of iustice, which are conuerlant about the positine lawes of man, or amongst such as be mixt of both.

14. Section. Pag. 129, 130, 131,

132, 133, 134, 135.

 Here the Abstractor fanlieth, that he hath so battered vs with his canons, that we must be forced to raise a rampier of our statutes, to make vp the breach: whereas in truth his forces were nothing but a bolle of colubzines, puffed and hissed off with serpentine powder of a spitefull tong, fitter to scare children, than to atchieue anie such enterprise. Wherebpon this neuerthelesse may be gathered, that he imagineth there is cause, whie it should be thought that the statutes of the realme are more loose in permitting pluralities (which he so detesteth) than the beirie canon lato it selfe. He answereth this point of our statutes, which establissheth dispensations with a wish and a prater, That these lawes might be respected, and that the law

Pag. 126.

Inconstan-
cie.

Falsificatio.

law of England might rule an English man in this case. But whie doth he then inforce (as afore) that they must receiue interpretation and addition from the common ecclesiasticall law? And whie doth he seeke to deface them as vngoodlie, contrarie to nature, and permitting things vnlawfull? Whereby he would scale awaie The clappers of these bells that they should not sound, and would vntie their bands, which should tie him and others more short vp to the obseruation and due estimation of them. For if there be anie lawes that do not Sound or bind, they are such especiallie, as he & his clients not onlie daillie breake, but do gnaw vpon in their conuenticles, and barke at in their publike speeches. And here this wzangler confesseth in discourse which he denieth in the title of his treatise, that some Dispensations are tollerable for qualified men in cases of necessitie, of conueniencie, for the honor of hir Highnesse person, and being warranted by scripture. Touching the first of these, the statute in truth restraineth it to dispensations vnto the pzinces person in cases vntowont, but not contrarie to the law of God. Concerning the second, the words of the statute, Are necessarie, &c: vpon due examinations of the causes and qualities of the persons, which after is left in some part to the Archbishops discretion. The thirde is more pressed than the former; for the words are thus: Not contrarie or repugnant to the holie scriptures and lawes of God. In steed whereof (he saith) they must be warranted by them. Whereas in truth manie things be not contrarie nor repugnant to Gods word, which are not positiuellie and expresselie warranted there, otherwise than that nothing is to the contrarie. And no lesse than the former, is that vnttrue and contrarie to the statute, where in saying that the Archbishop may dispense if he will in some cases not contrarie to the word, he would insinuate that he needeth not at any time except he list. And these things thus by him corrupted, he doth before he come to his hysse reasons, recapitulate as falselie almost as he had done before.

fore. The *Propo* of his first syllogisme of the three, being untrue and to be denied, wherein he assumeth the Having of manie benefices, or non residencie, to be repugnant to the lawes of God; though he haue not named non residencie afore, he telleth vs (if we may beleue him) that he hath alreadye proued By infallible conclusions of law, and vndoubted truthes of the word of God. Yet his lawes alledged do not once mention repugnancie with the word and scripture. And out of scripture to this purpose he hath alledged none but one place out of the first to the Corinthians, that ministers ought to haue maintenance. But he inforceth this matter by this argument, as I doe gather it: Whatsoeuer cause or matter is repugnant to the word of God, is by statute vndispensable: The cause or matter of hauing manie benefices, is repugnant to the word of God; namelie, ambition, pride, couetousnes, perill of soules, &c: Therefore the cause or matter of hauing manie benefices, is by statute vndispensable. First, to speake to the matter hereof, the *Propo* is untrue, bicause the sufficient maintenance of the minister, and the enioieng of a preacher rather than none, are the immediate impulsue causes of permission to enioy mo benefices. But if pluralitie should be an efficient cause of ambition, pride, couetousnes, perill of soules, &c: which it cannot be (otherwise than *Per accidens* by indirect occasion) then are these vices effects of it, and not they causes thereof, as here is auowed. But if we should admit these crimes to be causes of hauing mo benefices, then would I grant his conclusion, that the Archbishop may not dispense with those enormities: whereof neuerthelesse will not folloiw, but that he might (this notwithstanding) dispense with hauing of mo benefices, being but the effect as he suppoeth. To the forme I answer, that it is Paralogisticall *παρὰ ὁμωνυμίαν* upon the diuersitie of signification of the word Cause: which in his *Propo* and the statute, is taken for the matter it selfe to be dispensed with, so it be not repugnant to Gods

Pag. 121.

A fallacie of
equivocatio.

word: but in the *Opinoz* of this argument, it is taken by relation to the effect of that matter, which is to be dispensed with for the verie reason of the prohibition it selfe. In his second syllogisme, I haue shewed afore out of the statute, that the Maior is by him fained. For neither is any mention made of Peace or conseruation, neither is The wealth and profit of the realme spoken of there in all dispensations absolutelie, but in cases vntwont, and vnto the person of the prince. And yet his *Opinoz* proposition thereof, is also vninsufficiencie vpholden. For the enioieng of two benefices, is as far off from making by such tollie and wealthie prelats, as they doe saeme onelie vnto the left enuious eie of this Detractor; as this assertion is from the truth, that Hereby stipendarie curats and poore ministers are kept in beggerie. For it may be their allowance is according to the measure of their sufficiencie, and it is verie small indeed, if it be not more than he himselte thinketh them woorthie of, who holdeth most of such curats for no ministers at all neither in fact nor lawe. But if it were granted, that some such as are too meanlie prouided for, might be placed in some seuerall benefices that are enioied by another: doth he thinke that the releuing of him hereby, will ease the common-wealth, or profit the church, as much as the abridging of sufficient maintenance will decraie both the number and abilities of our best grounded and most learned diuines, who are onelie fit to impugne the errours and heresies of poperie and of other sects? His second reason of proportion drawne from diuerse other mysteries and trades forbidden to be exercised by one rich and mightie man, to the intent to proue that a damage groweth to the common-wealth, by one mans enioieng of two poore benefices, which can be accounted indeed but one trade: if it be a sound reason of iustice and equitie, as it is pretended, it will not onelie inferre, that a seuerall gift and facultie of learning is required for euerie seuerall congregation, as the cunning in seuerall trades is different,

rent, but also must inforce an unlawfulness in all sorts of men to inioy seuerall li. ships, or any inequality of possessions and substance whatsoever: bicause manie of The poorer sort might liue of such possessions in one mans hand, well and honestlie in the common-wealth: which is a bitter roote of the weed of Anabaptistickall equalitie and communitie. The last reason, which he bringeth for profe of his second Opinoz, is taken from the conueniencie of fulfilling the deads wils and testaments: as though all foundations and dotations of churches, had bene by last wils and testaments onelie established, and as though they had especiallie regarded by their said wils the seruing of those churches by pastozs continuallie resiant, and not hauing anie living elsewhere. But (I praise you) how was it lawfull for the latter men to alter the wils of the former founders, by making new distinctions of parishes and allotments of livings, if other parishes and livings were established befoze (as he absurdlie seemeth to fantasie) even by God himselfe? And why should he be so carefull for the fulfilling of their wils, who for the most part in time of ignorance, in regard onelie of massing for their soules, rather than for teaching of the people, and vpon opinion of meriting heauen thereby, did erect and endow churches; perhaps with some little glebe, though the chiefest benefit doe arise by tythes? Seeing he is of opinion that a matter grounded vpon anie cause or reason, is of like nature and condition, with the reason it selfe: so that if the cause and reason, wherevpon they grounded their building and endowment of churches be impious; then euen the things themselues shall be stained with like impietie, and not worthe thus to be tendered by him. But this his supposall is in deed a verie weake and slender coniecture, not worthe the name of a presumption, and meerelie consisting in fact without profe. And it might be better gathered, seeing pluralities within these last six hundred yeeres (in compass of which time most churches haue bene built) were

This reason
retorted vpon
himselfe.

verie rise, as may appeare by lawes especiffing multitudes of benefices incroched, and reteined without all licence or toleration: that patrones of churches could not be ignorant thereof, and therefore meant to provide for no such matter, which otherwise they would haue expressed, and met with either in dotation, composition, or by testament. And hee might with more colour vse this reason, euen against the iust dissolution of religious houses, being direalie and expresse contrarie to the mind of the founders: yet with no better authoritie warranted, than dispensations for pluralities, both of them euen by act of parlement. And therefore as the three seuerall *Minor* propositions of these his last syllogismes, built vpon these vnsecure and feeble grounds, for the prooue of the *Minor* in his second syllogisme afore, are to be denied: so are the verie *Maior* propositions all three, brought as grounds to build the other vpon, as weake themselves, as these which should be underpropped by them. For the great riches of some few, is no small occasion why some other doe want, which might haue more plentie, if all the wealth of the richest in the land, were distributed abroad in the world, and yet are they necessarie for the profit and conseruation of the common-weale, which consisteth by inequalities, as the wise doe know, which may serue also for answer of his second *Maior*: although he which by especiall priuilege hath some two livings assigned vnto him, can not properlie be said to enioy manie mens livings, or any more than that which is his owne by law. The like is to be affirmed of the dispositions in last wills and testaments, as though whatsoeuer did preiudice them, being made to lawfull and holie vses, could not be accompted necessarie to the welth and profit of the realme. For if a man would demise and bequeath (to neuer so lawfull and holie vses) his lands holden *In capite*, in chivalrie, or entailed, or another mans lands or goods, which course is allowed of by the ciuill law: yet is it thought necessarie in law, for the wealth
and

and profit of this land, that in some part the one, and that the other should whole be encountered. So doth the ciuill lawe disannull and reuerse a testament contriued neuer so solemnelie, or to how good and godlie vles soeuer; if the testators sonne be omitted, or be without iust cause disinherited in it; or if a sonne be bozne within ten moneths after his death, of the bodie of his wife. Thus hauing, as shortly as I could, run ouer his reasoning, it resteth to shew that by the statute lawe of this land, (which is the iudgement of the whole church & common-weale representative) dispensations for pluralities are lawfull. First the * statute 21. Hen. 8. saith, that men so qualified, (as is there prescribed) may take and receiue two benefices with cure of soule by dispensation, and therfore it cannot be vnlawfull. But if it be answered (as the Abstract goeth about to doe) that all dispensations are by a later * 21. H. 8. statute restrained, sauing such as be not contrarie or repugnant to the scriptures; intending withall this kind of dispensation to be vngodlie, and against the word of God: this may be refuted easilie by the preamble of the said latter statute, where it is affirmed To stand with naturall equitie and good reason, in all and euerie lawes humane, made within this realme, or induced by custome, that the parlement should haue authoritie not onlie to dispense, but also to authorize some elect person or persons to dispense with those & all other humane lawes of this realme, and with euerie one of them, as the qualities of the persons and matter shall require.

Now the iudgment of the parlement is, that the lawes prohibiting one man to intoy mo benefices, are but humane, agreeable vnto that which to this end I haue set downe, but namelie in the glosse last before alledged; and therfore that it may be dispensed with, it is hereby verie euident: in that this latter statute calleth all these dispensations so authorized, An ordinance by policies necessarie and conuenient, and doth againe establish the act for dis-

pensations in these words, That the same act for pluralities & non residencies of benefices, & euerie thing therein contained, shall stand good and effectuell to all intents: which they could not without manifest contrarietie newly strengthen, if these prohibitions of mo benefices, were not by humane law onelie, but had bene prohibited also by the law of God himselſe.

15. Sect. Pag. 135, 136, 137, 138, 139, 140:



THE Minor proposition of the third syllogisme pag. 133. [that It is not for the honor and ſuertie of hir Highnes perſon, to leaue any maner of authoritie for the Archbiſhop to diſpenſe] he goeth about to proue, becauſe the ſtatute containeth A contrarietie and abſurditie. And before he come thus farre, he affirmeth that this is To ſet an Engliſh Archbiſhop in the roome of the pope ouer the king and his ſubiects, and to reſpect him more than the dignitie and preeminence of a chriſtian king. As though that which was giuen by parlement, were vſurped, or he that claimeth it not as inueſted or incident vnto him, by anie right, but as a truſt recommended vnto him by the whole realme, (whoſe miniſter he is in this reſpect) could be iuſtly ſaid to haue preeminence aboue the king. For the Abſtractor might as well gather, that the Lord Chancelor, hauing manie great and weightie matters of confidence and truſt by parlement, and the common law laid vpon him, as namely Vpon complaint made that the Archbiſhop refuseth to grant diſpenſation to any perſon, that of a good, iuſt, and reaſonable cauſe ought to haue the ſame, to direct a writ, inioining him vpon a certeine paine by his diſcretion to be limited, to grant, &c; might therefore be ſaid to haue preeminence hereby ouer the Archbiſhop, and conſequently (by his collection) ouer the Quenes Highneſſe. But before

before I come to the examination of the proofes of his
 Opinion, I must put him in mind that his Proposition is untrue.
 For neither is the statute prohibitorie of all dispensati-
 ons, not Conuenient for the honor & suertie of hir High-
 nesse: neither yet (as hath bene afoze shewed) doe those
 words reach anie further, than to dispensations in vnaccu-
 stomed cases, for the princes owne person. The Absurditie
 and contrarietie he saith, is first in this point: because The
 Archbishop is authorized to grant dispensation vnto the
 prince in such cases, as haue bene accustomed to be gran-
 ted at the See of Rome: whereas the pope was neuer anie
 lawfull magistrate in the church of God, and therefore eue-
 rie dispensation granted by him was against the law of
 God, as granted by one that was no member of the church
 of God. Trulie my wits be passing dull, which can not
 perceiue how these doe hang togither. Might he not haue
 bene a member, though he were not head of the church?
 Or dispense with some humane law, without breach of
 Gods law? Or might it not be, that dispensations were
 accustomed granted by him, though he were not head
 of the church? Or might it not be that dispensations were
 accustomed granted by him, though he were not a law-
 full magistrate or dispenser? Or may not the Archbishop
 by lawfull authoritie committed vnto him, dispense in
 such humane lawes as hath bene accustomed, though the
 pope were an vsurper herein? Or lastlie, if all these were
 admitted, dooth it herevpon follow, that there is a contra-
 rietie and absurditie in the statute? Assuredlie he had need
 to be a kind and tender-hearted man, that will yeld him-
 selfe to be ouercome with such reasons. His second reason
 for proofe of the contrarietie, is to this effect: Dispensati-
 ons for vsurie, periuurie, incest, adulterie, &c: were accu-
 stomable granted at the See of Rome: But dispensati-
 ons for such crimes are against the word of God: Therefore
 such dispensations as were accustomed granted at the
 See of Rome, were contrarie to the word of God, Which

Corrupt
 collection
 of the sta-
 tute.

1

2

3

Is. sig.

is

is a verie childish Ignorance of the elench, concluding of
 mere particulars, and therefore neither in mood nor figure
 of argument. For although some were such that were
 there granted, yet it doth not follow that all dispensations
 from thence were of like nature: but the Archbishop by
 authoritie of that statute may dispense with none but such
 as be not against the word of God. But here the Abstra-
 ctor hath joined with such as vndoubtedly are against the
 word of God, *Non residencie*, and manie benefices. The lat-
 ter whereof is the matter in controuersie, whereby this is
Petitio principij: and the first can not be dispensed with dur-
 *1.H8.c.13. ring life; for that the * statute maketh such dispensations
 void, & subiecteth the partie vsing them, to a grievous pe-
 naltie. But where he maketh Not eating flesh in Lent to
 be a matter repugnant to the law of God: whereby he in-
 ferreth such dispensation to be vnlawfull, he must needs
 confesse that he was in his fit, and knew not what he said:
 for if to abstaine from flesh in Lent vpon commandment,
 and by positieue and politike ordinance, be (as he saith) Su-
 perstitious, and a matter repugnant to the law of God: then
 as it seemeth should a dispensation to do it, which restoreth
 the former libertie of eating flesh, be more agreeable to
 Gods word, and the more meet to be vsed. But neither ea-
 ting, nor yet not eating of flesh at anie time, is of the law
 of God, *Quia esca nos non commendat Deo, neque regnum Dei est
 in cibo & potu, & nihil quod intrat in os coinquinat hominem*: so
 that to dispense herewith, either to eat or not to eat, can
 not be vnlawfull. And that this obseruation of fishdaies
 *5.Eliz.c.5. is but a politike constitution, it is * explained elswhere by
 act of parlement: whereby also he and others (which shall
 affirme otherwise of the intent of the prohibition to eat
 flesh on certeine daies) are to be punished as spreaders of
 false newes. But at the last he stumbleth vpon the right
 interpretation, that the Archbishop ordinarilie is but to di-
 spense with matters accustomed to be dispensed with at
 the See of Rome, and not then simplie, but onelie so farre
 forth

forth as they were not contrarie or repugnant to the word of God. Whereby he straight inferreth, besides those which are afore spoken vnto, that he is not hereby Intituled to dispenſe for ſimonie, *Non reſidencia*, mariages in Lent, &c: becauſe thoſe are matters he ſaith repugnant to the law of God. Touching ſimonie, it can not be denied but it is a greuous fault, yet forbidden by the poſitiue law of man onelie, (albeit Canonists for the moſt part haue deriued it from the offense of Simon Magus) and hath his grounds and reaſons verie weightilie deduced from the law of God and the light of nature. Notwithſtanding, our author hath almoſt wholie qualified and diſpenſed with it, as much as he could with little honeſtie, in his firſt treatiſe: namelie, By right of couenants, by the well liking of the people, by a good fire in the hall once in a yeare, and by a ſhyuer of bread at the patrons doore. But if *Non reſidencia* be againſt the law of God abſolutelie and directlie, and not by euent and conſequence onelie; then muſt it be againſt ſome of the ten commandements: and thereby will it ſolow, that as vpon none occaſion, anie of them may be tranſgreſſed, ſo will it be ſinfull for a man vpon anie cauſe whatſoever, at anie time to be aſwaie from his benefice, though it were but an houre, no more than a man may kill for an houres ſpace. Laſtly, where he affirmeth Mariages in Lent to be repugnant to Gods law, and therfore not diſpenſable: except he will acknowledge that he was in his melancholike mood, in a little houſe hard beſide himſelfe, he may happen for this ſaſeng to be grauelie cenſured by the elderſhip, where he hanteth. But if the prohibition of marriage for ſome certeine times dratone from the old canons, be but of law poſitiue: why may it not by the ſame authoritie be likewiſe releaſed and diſpenſed with: And in deed the occaſion of ſuch prohibition (at ſome ſolemne times of faſts & prayers) was groundded vpon the ſame reaſon, that the Diſcipline of France forbade the receiuing of the communion by the new married couple that daie.

date. Yet he is not thus content to rest in this interpretation, but must haue a sting sawcilie to traduce the whole parlement, as Falling into two palpable absurdities, by want of foresight & due examination. And that they which were in parlement then, had bene powdered but with a little salt of that discretion and forecast, therewith this man thinketh he is thoroughlie seasoned! Then no doubt some famous church-plat would haue bene hatched, which as yet is but a castle built in the aire, by his owne shallow conceit. The first Absurditie in this statute he noteth, in that it is Left to the Archbishops determination, what is repugnant to Scripture, what conuenient for the honour and safetie of the prince, & for the wealth and profit of the realme. The first thereof if it should be attributed to any one man (which for the difficultie of meeting vpon euerie occurrent, and other confusion in multitudes, cannot indeed conuenientlie be otherwise) I doe see no cause but by common intendment, the Archbishop may be holden for as sufficient a man as any one other to decide, what is repugnant or not repugnant to Gods word. Albeit there is no one word in the act, that either yeldeth the determination hereof, or of the other two vnto him: but rather (as may be collected) the contrarie. For the two bookes of taxes, which must containe the rate of euerie facultie, that is to passe, and which vsuallie before had bene granted at the See of Rome; are by statute to be set downe by the Archbishop, the Lord Chancelor, the Lord Treasurer, and by the two chiefe iustices of both benches, for the time being. But in vnaccustomed cases, the Archbishop can passe no facultie at all, vnlesse the prince or counsell shall determine it, and giue licence vnto him so to grant. But if all these Contrarieties and absurdities that hitherto the Abstractor vaine-ly (as you see) hath bungled about, should be granted to be in the statute; yet how could the 3rd proposition hereby be confirmed (which was his purpose to proue) that It is not conuenient for hir Highnesse honor and suertie, to leaue any

any maner of authoritie in the Archbishop to dispense. For there might be some parts of the statute, and some faculties absurd, yea all might be so; and yet his honoꝝ and suertie no waie impeached: for *Vtile per inutile non vitiatur*: that which is to no purpose, doth not hinder that which is to some vse. And if he would haue authoritie of dispensing taken from the Archbishop, and to be giuen vnto his Patesie, in respect of unlawfulnessse of dispensations, how shall this be lawfull in his Highnesse royall person, more than in his? And the vanitie also of his Other absurditie is discovered, which would therefore ouerthrow the whole act, bicause it is unfitting, he saith, For a subiect to grant a dispensation to his souereigne. But albeit there neither is noꝝ can be so frequent an vse of such dispensing with the princes owne person, as was when the statute was made, by reason manie humane lawes brought in by canons of counsels were then throughout all this west church suffered to be in force, euen with souereigne princes, as about bowes, marriages within certeine degrees of carnall and spirituall (as they termed it) consanguinitie or affinitie, clandestinitie, legitimatation of children borne before espousals, and such like a number more than now are: yet doe I thinke it too generall simplie to be set downe; that now there can be no vse of anie dispensations at all for the princes owne person, as by examples might be shewed, if it were requisite. For although the person of the prince needeth not to be dispensed with for the positive law of man being made by his direction, according to that Dispensation which is a relaxation of law in some particular case, the bond and strength of it otherwise remaining in force: noꝝ can for the law of God, which no man may release in anie particular mans case, the bond of it being perpetuall: yet notwithstanding I doe not see, but by a Dispensation of iustice, which is a true and bright interpretation and declaration, that the law of God, of nature, or of nations, according to the true sense and meaning thereof, hath not place

place in some particular action, which otherwise might in
 shew appeare to be included in the generalitie of them;
 that in this respect it may be expedient, even the princes
 person sundrie times so to be provided for. And this the ra-
 ther, bicause by law and naturall reason *Nemo secum dispen-*
sas, no man can impart a dispensation vnto himselfe. So
 that the Archbishop in such a weightie case, having with
 the best learned in the land maturelie debated the matter
 with all circumstances, and found vpon pregnant and in-
 vincible reasons, that it cannot be trulie said to be against
 anie of the former immutable lawes: if then he shall *In*
perpetuam rei memoriam, in autentike forme vnder his seale
 set downe this resolution: it cannot iustlie be anowched
 that the princes hono^r or prerogative is hereby any waie
 abased, but rather the quiet of his mind well provided for;
 and the doubts, which in processe of time might herevpon
 be cast, wiselie and godlie to be met with, for the profit
 and benefit of the realme. Neither can such dispensation,
 touching the princes owne naturall person in matter of
 conscience, or of some positive ecclesiasticall law, which rea-
 cheth vnto him, be any more derogatorie to his hono^r or
 royall prerogative: than * when the iudges of the land did
 determine, that the attainder by parlement of the person
 of the noble king Henrie the seauenth, was vpon his call-
 ing to the crowne, by the verie operation of the law adnu-
 led and discharged. Or when Archbishop Cranmer gaue
 sentence for the nullitie of marriage contracted betwixt
 king Henrie the eight, and ladie Katharine Dowager, his
 late brothers wife. Whereby may also be perceiued, that
 the difference, which the Abstractor taketh betwixt the
 iudgements of the iustices and the dispensations of the
 Archbishop, as not touching the kings owne person, like
 as dispensations doe, to be destitute of footing, or sound
 and good ground to stand vpon. And although in words he
 seeme outwardlie thus to tender his Maiesties honour and
 prerogative; yet the place which he alledgeth out of the ci-
 uill

* 1 Hen. 7, 4.

will lawe looke a cleane contrarie waie. For thereby he would subiect the princes person to his owne positue lawes euen of necessitie; bicause in the ciuill lawe the * emperors say: It is a word worthy the maiestie of a ruler, to acknowledge himselfe as cheefe tied vnto lawes. Whereas neuer thelesse the emperors speaking else-where in the same lawe, doe saie thus of themselues: Although * we are not bound by lawes, yet we liue according to them. So that by the lawe which he alledgeth, the verie contrarie vnto his position, might seeme to be gathered: bicause, if the person of the prince be tied by the bond of the positue lawe, then should a dispensation be as requisite sometimes for him, as for any other which in like maner is tied and bound vnto it. Some doe reconcile these lawes thus: That a soueraigne prince is therefore not said to be bound by lawes, bicause he may abrogate them at his pleasure. Other saie, that he is tied onelie to the lawe of nature and of nations, but not to positue lawes. A third sort doe hold with good probabilitie, that he is bound to positue lawes according to their force Directiue, but not Correctiue, to be directed by them, so farre as may concerne him, but not to be corrected of them; neither yet that of necessitie he is to be directed by them, but of congruencie and conueniencie onlie according * to that:

*In commune iubet si quid censetur tenendum
Primus iussu subi, tunc obseruantior aequi
Fit populus, nec ferre negat, quum viderit ipsum
Censorem parere sibi: componitur orbis
Regis ad exemplum.*

* Clandianus
de 4. consula-
ri Honorij.

And so is the king of * England also tied to some positue lawes, according to the iudgement of the iustices. ^{* 5. E. 4. 32.} ^{Dea 39. H. 6. 39.} It is in this respect honourable to the prince to suffer himselfe to be directed by godlie ecclesiasticall lawes, not impugning his prerogative, except good cause may be alledged of relaxation. And therefore the Dishonour and danger

* Preamble
of the Statute
25. Hen. 8.
ca. 21.

ger to hir Highnesse, which in the Princes he assumeth, we are easilie deliuered of, till he can shew better cards for it. And where he extendeth this reason of Dishonour, to infringe all dispensations granted likewise to subiects, he is not so well aduised as he might be. For seeing it is necessarie, vpon sundrie weightie occasions, that immunities and dispensations for humane lawes be granted to some aboue other, and the ambiguities of Gods law, and of the law of nature in some cases to be declared and interpreted: it were more dishonorable to hir Maiestie to attend these meaner matters from time to time in hir owne person, than it can be in the worst construction, to put them ouer to some of hir subiects. And as it cannot be conuenient for hir Highnes to attend in person the execution hereof: so hir royall dignitie is no waie impeached by yelding this authoritie to the Archbishop, who must (where cause requireth) performe this dutie but as a minister herein to hir Maiestie and the state: and who cannot dispense as he list, but with confirmation vnder the great seale of England, as the statute doth limit. Yet he importuneth hir Maiestie still, by telling hir what hir Highnesse most noble father would haue done (if he had Vnderstood so much as the Abstractor doth) not onelie to take dispensations a waie from the Archbishop, but belike in regard of them, to take him a waie also, as he did An abbat: a match truelie and comparison as vnlike, as if we should compare the Abstractor to an honest modest man. And for this end he exhorteth hir Maiestie to Submit hir selfe to the scepter of Gods word, as though she had not done it hitherto. But he and all the knot of them, by these speeches doe indeed vnderstand the submission & licking of the dust of their Seniorie and Eldership, which is neither dishonourable (for sooth) nor so dangerous to hir Highnesse, as is the committing ouer of dispensing (in causes requisite) vnto the Archbishop, because they amongst them haue so concluded, that it shall be, touching the perill To hir Maiesties honor and safetie, which

which groweth By the Archbishops dispensing in matters repugnant to the holie scriptures, vpon a corrupt construction, a sinister iudgement, and not right discerning what things be repugnant to scripture, it shall easilie be yelded vnto, that it is neither for hir Maiesties honour nor safetie, to suffer the lawes of God to be broken; albeit those words of the statute (as haue bene shewed) doe not extend vnto all dispensations, by vertue thereof to be granted. But first he and his complices must beat their sconces a while, to teach the Archbishop how he ought aright to construe, to iudge, and to discern the scriptures, whereunto (as he saith) his dispensations are repugnant belike according to some anagogicall, tropologicall, or cabalisticall sense of their owne deuise, wherof they haue perhaps dreamed. Yea, and all this adoe, which he maketh about dispensations to the princes person, is vnseasonable and impertinent wholie to the matter in hand, concerning the validitie or inualiditie in law of dispensations for pluralities: and therefore might with better prouision to his owne credit, haue bene spared.

16. Section. Pag. 140, 141, 142.

143, 144, 145.



The Abstractor, which thinketh he hath found Absurditie in the Statute, goeth on still in his owne absurd dealing: purposing to shew as well by statute as by the Canon law certeine adiuncts necessarilie to be obserued in these dispensations, which he in this whole treatise laboureth to proue by both the said lawes to be vnlawfull. Which course must needs seeme to wise men a strange peece of worke, that those lawes which doe condemne them, should so exactlie describe their properties and circumstances, in what maner, with what care, and to what kind of persons they ought to be granted. And first of all.

all he here woundeth the smoke verie deepe, and fighteth
 valiantlie with his owne shadow, in that he would proue
 Pouertie to be no sufficient cause of dispensation: and that
 euerie one dispensed with alreadie for pluralitie, can not
 iustlie be reputed for a poore man: neither of which I doe
 neuer heare by anie man hitherto to haue bene mainteined.
 But in going ouer his proses hereof, I must put him in
 mind, that Rebuff. his first witnes hereto produced, though
 he allow not of pouertie for a sufficient cause of it selfe:
 yet he insinuateth thus much, that being ioined with wo-
 rthinesse, it is adminiculant (as we call it,) and that it
 addeth weight to desert, for procuring of a dispensation.
 For in deed, as it is reason, that a man worthe and able
 to profit the church, should haue sufficient maintenance,
 though it be by mo benefices than one, for supplie of his ne-
 cessitie, and towards hospitalitie: so if he be of sufficient
 patrimonie otherwise, though he be neuer so worthe, and
 his ecclesiasticall lining be even vnder a mediocritie: then
 there is lesse cause a great deale, why he should looke for an-
 other. And againe, the same autho: by him vouched doth
 directlie decide, that A dispensation tending to the profit
 of the church, or vpon necessitie, is lawfull. And therefore
 by his owne witnesse, which in law he can not refuse, the
 scope & drift of his whole treatise is againe ouerthrowne.
 And where he addeth, that he which hath taken a small li-
 uing, may not in anie case seeke to augment it: if his bare
 words did make law, then surelie ecclesiasticall livings,
 which be but small, would hardlie be furnished. Yea, the
 reasons, which to this end he bringeth, are as trulie verified
 of anie temporall lining, as of ecclesiasticall. But what if
 both the sufficiencie of the ministers gifts by his owne in-
 dustrie, and by the blessing of God doe notablie increase,
 and his congregation also be multiplied more and more in
 people, or if his domesticall charge arise by number of chil-
 dren, or by their sickenes; may he not seeke some augmen-
 tation of his lining? Truelie this deuise ioined with that
 which

which followeth, of dr̄iuing ministers to furnish the wants of their maintenance by Some handie craft and labour, is an open window, to dr̄aw them from studie, and so to ignorance, barbarisme, sauage wildestie, contempt with all men, and finallie it leuelleth directlie at the ouerthrow of all religion. The first place, which to this end he quoteth, doth not speake to that purpose wherunto it seemeth to be brought: but * that Whatsoever hath once pleased a man, ^{* 32.9 5.c.} ought not anie more to displease him. Now he that ha- ^{horrendum.} uing too small a liuing to mainteine him, seeketh a further supplie by another: doth it not vpon anie dislike of the former. And therefore it might better haue bene applied to infer, that a man may not of his owne head relinquish his benefice; yea, it is not generall without his limitations: but is speciallie to be vnderstood, where by variance in liking, a preiudice to another man may rise. Which inconuenience if it be met with by the iudgment of the Ordinarie, whom the law authoriseth to iudge of the exigence of the cause, fit for relinquishment of his former liuing: then that rule doth cease. For else should all translations and shiftings fr̄o one congregation to another, vpon sufficient ground (both allowed by law, and practise of most reformed churches) be vtterlie vnlawfull. The next being crosse quoted with the former, and * which he saith is Law in truth, ^{* c. sanctuarii.} doth varie in verie deed, from the canon it selfe: which hath ^{70. dist.} nothing tending that waie, either of Preiudice growen vnto him that hath receiued a small benefice, or of seeking his liuing by his owne craft, but onlie thus: In what church soeuer a man is intituled vnto, in that let him perpetuallie remaine. Not as though a man might not vpon some occasion renounce and resigne his benefice into his Ordinaries hands: but that he hath it by institution for terme of his life, and therefore may not be put out of it against his will, without sufficient cause therevnto, as may appeare by the glosse. That * part of the next place, which requireth ^{* 21.9.1 c. 1.} a mans continuing in his owne vocation, doth not touch

antie thing now in controuersie, seeing he which hath two
 benefices, doth not giue ouer his vocation. As to the o-
 ther part seeming to counsell a poore clerke to labour with
 his hands, for the better supplie of his maintenance, by the
 example of the apostle, it seemeth to me, not to be spoken
 of the priests and ministers in chiefe cities, but of clearks
 in inferiour orders and degrees, whose attendance in such
 great churches was then in great numbers practised. Yet
 the * glosse answereth it, that Those things were in vse in
 those daies, but not now wherein God had dealt more li-
 berallie with the church: and that those things are to be
 considered according to the qualitie of the person, and site
 of the church, seeing that which is sufficient for one, is not
 for another: and the custome of the countrie is herein to
 be obserued. And mine interpretation is strengthened
 by the conference of two or three chapters together, of that
 distinction which he alledgeth, in which a manifest diuersi-
 tie may be obserued *Inter presbyterium & clericum*, a priest
 and an inferiour cleark. For the * priest or minister hath
 in those canons his taske for the whole daie so limited forth,
 that it will not be possible for him to haue time besides to
 carrie salt to his potage by his handie tooke. Yea, the be-
 rie glosse * whence he borrowed all this furniture at one
 clap, doth tell him that this course is changed sithence, if it
 had pleased him to haue looked a little lower. But (saith the
 glosse) a man is not to be instituted, except so much be as-
 signed, whereby he may be sufficientlie provided for, and
 be able to paie the duties to the Bishop. And by the way
 the same glosse sheweth, that pouertie is some part of a
 reason, wherupon to ground a dispensation for pluralitie,
 though not an entier cause. The example of S. Paule may
 be answered, that it is not appliable to these times. Be-
 cause the gifts of the Holie-ghost, for the furnishing of the
 tooke of the ministerie, are not miraculously now be-
 stowed as they were then, but by the industrie, painefull
 studie and indeuour of the partie. Therefore if we should

* Gl. ibid. in
verbo neces-
sarietatem in
fine.

*c. Presbyter
c. Clericus. 1.
& 2. dist. 91.

* Gl. in ver.
minus. c. si
proponente
Ext. de re-
script. per c.
de monachis
infra de Pre-
bendis.

set him to a manuell occupation to gaine some part of his liuing by, on the working daies; assuredly his mind would be clogged, his spirits so dull & wearied, his inuention so mechanicall and deuoid of pith on the holie-daies, that it were as good to keepe him at hedging and ditching, or vpon his shopboord skill, as to put the poore man any more into the pulpit. And hereby it will come to passe, that if we haue now too manie vlearned men in the ministration, with whom the Abstractor is so round in his first treatise; by this deuise of his we shall haue in short time none else but vrie dolts and idiots: except he can imagine, that men comming from the Vniuersities, will be content to be preferred from being Scholers to be scauengers, from Sophisters to be shoemakers, from Bachelers to be bakers, from Masters of art & other Graduates, to be millers or grinders, and yet to continue the ministration still. Much like to the contemptuous sarme of Lucian, that Alexander the great is preferred to sit on a three-footed stoe behind a doore in hell, cobling and clowting of old shoes. Iste, though S. Paule was content in that infancie of the church, for auoiding of grudging & murmuring, to earne some part of his liuing by tent-making, that he might thereby spare the churches more, and the rather thereby to allure them to liking of that, which was not chargeable vnto them: yet in sundrie places it is not obscurelie signified, that both he might haue exacted his entier maintenance of them, & that they in dutie were bound to procure him, in all necessarie worldlie reliefe. Furthermore, we are to note, that he which could find but two causes of dispensations before, hath now light vpon two more. He alledgeth also to proue, that Pouertie is no sufficient cause of dispensation: the saying of the apostle applied by the late, that A man hauing food and raiment ought to be therewith content. Wherevnto if he will assume that those, who purchase dispensations for mo benefices, haue these things afore, wherewith therfore they ought to hold themselves con-

P.ij.

tent:

Incon-
stancie.

tent : then will it (being scripture and not spoken of ecclesiasticall men alone, but of all whomsoever) as well serue to proue, that no man may seeke (be the meanes neuer so honest) the bettering of that his estate, wherein he is at the verie first settled. And yet is it not meant of anie food how little, or anie apparell how meane soever, but of a sufficiency in both, according to the calling and degree of the person: and is but set downe to meet with the couetous, brimicable, and distrustfull desire of riches, which when we haue attained them in highest measure, can yeld none other necessarie vse at all, but that which tendeth either to the one or the other. Now, he going on this course, saith: that he which knowing the smallnesse of a living, hath undertaken it, hath thereby debarred himselfe of all iust cause to foreshinke him, seeing it was his owne follie to prouide at the first no better for himselfe. Which he proueth by no other ground, but that which hath bene answered before. And if none of this will serue, yet will he by examples of two men shew, that no pluralitie-man wanteth living, or may pretend anie necessitie: but so childishlie & ridiculouslie, that I am faine euen to blush in his behalfe. For when a man hath alreadie a pluralitie of benefices (as he surmisseth) though they may be such as be farre from a competence of living: then there is no likelihood that he would desire that which he hath, or more which can not be had, or yet alledge or pretend want, when it is as far supplied, as law doth yeld. But if these two whosoever, with whom he thus plaieeth (vpon enue no doubt to the great gifts of God in them, and malice to their persons) neither iustlie can nor yet will pretend anie want of living, but will humblie and thankfullie acknowledge in modestie, that God hath dealt verie mercifullie with them aboue manie of their brethren: doth it hereof follow, that none other hauing but one benefice, can iustlie pretend insufficiency of maintenance, whereby he may be induced by ordinarie meanes to procure an increase thereof: A shallov and barren

The Abstractor his foolish malitious mirth.

barren pate, or else brazen forehead, which dare thrust out into this learned age, such doltish yet malicious fooleries ! But we may see by his dealing here, that there is more luster spirits in this man, than are leapes in a beare. *περὺς ἀνδρομῆτις (αὐτὸς) μετὰ νομίας ἐνδεῖ.* Now therefore to answer his mild question in the like key : may a melancholike mate, a shifting corner-creeper, who in corporat townes where he commeth, is of all spices most afraid of mace, whose credit is so cracked, that euerie man will be as readie to giue him trust vpon the paring of his nailes, or pawning of an old razor, as vpon his single bond : whose learning in law is not worth a liard, whose reasoning is rude, whose modestie is not worth a mite, may (I saie) such a sonne of the earth with toleration of good men, in an infamous libell renew the practise of the old comedie, and plaie both foole and vice himself, cynicallie to nip such men (as is thought he doth in this plaie) in comparison of whom he is in all respects but risse raffe, and as base as a verie dishclout : If he be such, as I haue described, who hath done them this iniurie : then doe I botle at him, & would hit him full patch. But if there be none such, then I doe onlie aske the question, and put the case. But whosoever they be, that will speake and write which they ought not, let them be assured, that in the necessarie defense of the good and learned, whom they thus maliciouslie doe traduce, they shall heare that which they would not, nor yet happilie looke for. But their iniustice, which he reclaimeth of, and will (as he saith) Descrie and discover by law, he had need for the couering of his owne shame, and his corrupt or loose dealing, to decrie and call backe againe. For the verie * glosse vpon the place which belike made him vnwilling to quote it, doth betwixt his packing and fond collection, as though there were no cause of reteining mo benefices, but when they are verie small, whereas that verie glosse gathereth in a verie other causes also, which I haue touched afore.

* Gl. in verb.
tenues c. eant
te Ext. de g-
tate & qual.

*Paupertas, pendens, defectus, gratia, seruans,
Ecclesias retinere duas, dat quodlibet horum.*

And bicause he saiw that this ouerthrew his former de-
nise, whereby he affirmed, that a man hauing once made
choise of a benefice, be it great or small, might not seeke a-
nie augmentation: therfore as a pope which is fained to
haue all lawes and interpretations *In scrinio pectoris*, he sa-
keth vpon him to declare, that this lawfull inioieng of
two small benefices, is to be vnderstood onlie, when as the
one of them being a competent living at his entrance, is
by some casualltie afterwards impouerished, euen cleane
contrarie to the circumstance of the place: and so by his
owne bold surmise, he dareth to distinguish against law,
where the law maketh no such distinction. With like derte-
ritie also doth he handle that matter, where it may iustlie
be said, that churches are (to the effect afoze mentioned)
small in reuenue. For the canon, which he hath wrong
quoted, doth not once mention smalnesse in reuenue, which
he would haue vs beleaue, that it goeth about to define:
but onlie a politike direction is there set downe in a coun-
cell, according to the vse of those times, for Bishops to looke
vnto, in vniteng of parishes, which were meet to be gouer-
ned by one priest. *Ecclesia quæ usque ad decem habuit mancipia,
super se habeat sacerdotem, quæ vero minus, alijs coniungatur eccle-
sijs*: That church which at the least had ten seruants or bond-
men, let it haue a priest ouer it, and that which hath lesse let
it be ioined vnto other churches. That which this canon set-
teth downe for an estimat of some sufficiencie of reue-
nue, by the bondmen belonging to the propertie of the
church: the Abstractor ignorantlie and vntrulie doth tran-
slate Housholds, and would hereby gather wheresoever
ten households be, that there the ministers maintenance
will rise to a full sufficiencie. But I would wish those
which thinke so, might be tried but for seauen yeares tog-
ther, how they could mainteine themselves, and what hos-
pitalitie

* 10. q. 3. c.
viii.

Corrupt &
ignorant
translati-
ons.

pitalitie they would vse by the tythes, offerings, or contributions from some seuerall score of households which I could name vnto them. For as at the first the chiefe of euerie priuate mans wealth consisted *In pecudibus & pecoribus*, in cattell, sheepe and goates, wherebpon it came to be called *Pecunia*: so, about the flourishing time of the monarchie of Rome, the chiefe part of their wealth either consisted or was esteemed *Per mancipia*, by the number of their seruants and bondmen. In somuch that this word did herebpon, and by their manner of selling *Per mancipationem* then vsed, come to signifie all their moueable goods, as *Prædia* hereditaments, signified their vnmoueables. Not^{*} onelie (saith^{*L.3. Offe.} Tullie) in lands or hereditaments, the ciuill law drawne from nature dooth punish ill dealing and guile, but also all deceit of sellers is excluded in the sale *Mancipiorum* of moueables. And againe, It is manifest (saith^{* the law} that^{*L.3. ff. de diuers. tempo. prescrip.} prescription of long time hath place, *Tam in prædijs, quam in mancipijs*, as well in vnmoueables, as in moueables. Whereby appeareth that not the Pluralists, but the Abstractor, is ignorantlie or Wilfullie blind, which can make by a strange Aldimie of one bondman a whole household, and of ten of them a sufficient parish, in deed fit inough to mainteine such a profound docto^r as he himselfe is. That which he alledgeth out of Rebuff. against the practise of the Pope and church of Rome, which rather in dispensations respect the vtilitie of the partie than of the church (which ought chieslie to be regarded) pertaineth to be defended by the patrones of poperie, and not to this church of England, against which his forces are bent. Yet it argueth, both that the benefiting of the partie, though not chieslie may be respected, and that a dispensation may in truth tend to the benefit of the church, and therefore may be lawfull euen by his owne confession.

17. Section. Pag. 145, 146, 147, 148,

149, 150, 151.



His man surelie hath a great gift of a little more boldnesse than audacitie commeth vnto, which not onelie prouoketh men to the examination of his wrested, racked, and falsified lawes, but to the hinderance of hir Maiesties seruice, and that he and his confederats, might in the meane time trouble the vnitie of the church, would set hir Highnesse commissioners atworke one against another, as the diuell in the person of Frier Rush hath bene fained to haue done amongst the couent. Which as he doth maliciouslie, with odious comparisons against the ecclesiasticall men in the said commission: so (I doubt not) but withall his factious flatterie is euen lothsome and importune to all the other imploied in that commission, whome he maketh Sounder and better than the ecclesiasticall men, and not onelie Godlie (as they are indeed) but so farre forth, as though he could not bestow this Epithet vpon any of the other, without derogation from them. Which if it be not to solue the seeds of dissention amongst the great men of the land, I know not well what may be so accompted. But those ecclesiasticall men in commission, whome he so saucilie debaseth, are I hope all of them so bozne vp with a good conscience, that they feare not either the virulent and spitefull accusations of any such Gracchus or Saturnius as this is, neither are they afraid to haue their doings orderlie sifted by whomsoeuer. The lawes, which he would haue at his intreatie some of The commissioners to put in execution, doe make void (he saith) euerie dispensation granted for longer time than for seauen yeares, to the enioieng of mo benefices than one. But if the proses which he hath already brought to proue them to be vnlawfull, as being against Gods lawe and mans lawe,

lawe, be so substantiall, as he would beare the simple in hand: then come in these Lawes here to no purpose, euen a daie after the faire. For if no law warrant them, they are void in themselues without anie further respect had vnto any circumstances about their granting. But a litle to runne ouer his proofes. The first speaketh not of dispensations for pluralitie, nor of the making void of them, nor of any limitation of time to inioy them, or to grant them: but onelie, that by ordinarie course of law, a man is to be resident in his benefice, albeit for a time and vpon a reasonable cause, the Ordinarie may dispense with him for his non residence. The glosse thereof he hath falsified. For it saith not, that the Pope cannot, but that he which was then Pope did not giue faculties of perpetuall non residence, such as were granted by his predecessor. And he reasoneth (as his vse is) like a deepe Logician, *Specie ad genus negatiue*; Because dispensations for non residence may not be granted during life, Therefore no dispensations at all may be perpetuall. The like may be answered to the next place, which speaketh not of a facultie for pluralitie, but *De non promouendo*. Whereby such as were students abroad, might be suffered to retaine a benefice by the space of seauen yeares, without taking anie further orders than subdeaconship: which thing neuertheles the Abstractor did omit, and doth cut off with an, &c. But in the* preface of this constitution, we haue an euident example to admonish vs of the necessarie retaining of some authoritie to dispense: least lawes being generallie made for publike good, by occurrences falling out afterward, (which could not be at the first foresene) be turned indeed to the damage and detriment of the church. For in this constitution it is reported, how by reason of a canon made in the councell of Lyons, which exacted that within one yere he that would inioy a benefice, should necessarilie become priest: that few or none which were learned, or meant to increase their knowledge, would accept of anie parochiall benefice.

Falsificatio.

An absurd reason.

*c. cum ex eo de elect. in. 6.

Where

Whereupon the Bishop of Rome was now bidden to grant unto Bishops libertie of dispensing for the space of seauen yeares, to such as would be subdeacons, *De non promouendo*, so they continued in some place of studie. But what is this to the practise of our church, which hath by statute no facultie in force for a beneficed person with cure of soule *De non promouendo*. For he must needs be of a certein age, and a deacon, before he can be admitted to such a benefice: and within a yeare after he must be full minister upon the penaltie and losse of his liuing, *Ipso facto*. And yet upon the like danger, for the which it was not thought meet that this kind of facultie should be granted during life: he bindeth the cutting off at the seauen yeares end, of the validitie of dispensations also for pluralitie. But I answer, that this constitution is penall and strict, and therefore not to receiue anie such extension: That the rule that the same reason maketh the like law hath manie limitations, where of some may be found to be appliable to this case, and are touched in the former treatise: and lastlie, that in these two faculties the reasons be not alike. For he that inioieth a pluralitie, gouerneth and profiteth the church by his learning attained in that place where he maketh his residence: whereas, if a dispensation *De non promouendo*, during the time he would remaine at studie, should indefinitely be granted without limitation, then the partie might continually be a learner without euer profiting (by instruction) any part of the church in any place wheresoever. Yea, the law decideth this controuersie, by permitting the grant of the one dispensation for life, and making the other but temporary, which is aboue all dispute. So that although he that is dispensed with to inioy two benefices, be not accustomed directly to haue a facultie of non residence, they two being diuerse: yet is it by law (* as to other accessaries necessarilie consecutiuie, without the which it could not else sort to effect) to be extended also to containe and implie this facultie, * that he need but to reside in the One
of

* *Gl. inc. in tantum Ext. de Præb.*

* *Gl. inc. non potest de præ.*

of his benefices, bicause no man can be personallie resident in two churches at one time. Therefore out of the premises I answer to his Maior proposition two waies. First, that if dispensation be taken for an administration of iustice and right, as it is sometimes vsed, then is the verie collation and institution of a worthe man, a facultie whereby he may enjoy the fruits of a parish church during life, though not in his absence which is not here expresse: and in this sense his Maior is vnttrue, as making all such to be void. Againe, there lurketh a fallacie in the equivocation of the word Granted. For if it be understood of an expresse grant to him that shall be absent (as I thinke he meaneth) which is a direct facultie for non residence, and be granted by an inferiour since the making of that constitution, considering no absolute or soueraigne prince (such as the pope claimeth to be) can thereby be tied otherwise than voluntarilie, *Quia par in parem non habet imperium*: then will I grant his conclusion. But if he will extend the word granted so far, as to carie all such grants, whether expresse so conceived, or but by implication onelie: then is it to be denied as false: bicause in a dispensation for pluralitie, by the secret operation of lawe, a facultie of non residence vpon the one or the other benefice is necessarilie implied and allowed (without expresse) euen during the life of the partie. And therefore there is no cause, whie by collusion or indirectie, the Archbishop should seeke (if he were so desirous in that sort to gratifie any man) to renew their faculties of pluralities after seauen yerres: seeing he may by law grant them for terme of life; which may necessarilie be thereof inferred, bicause the partie being instituted to a perpetuitie in both, and dispensed with to reteine and keepe them, it cannot be otherwise intended, but that his dispensation shall last so long time, as he shall haue title vnto them, which is during his life. Therefore I cannot in truth maruell inough at the confidence of this man, that so generallie dare auouch in the negatiue vpon no more

in 6. fely. in c. fin. Ex. de Simon. las. in l. beneficium ff. de const. principum. Pa-norm. in c. ex-sirpande S. qui vero Ex. de Prebend.

** c. si gratiose Ex. de rescri. c. satis peruersum diff. 66. A confident and false asseueration.*

ground

ground then you see, that Before the 25. of H. 8. no facultie was granted at the See of Rome, or by authoritie thereof, for the reteining (as he meaneth) of the fruits of any parish church, longer than for seuen yeares space. When as manie yet liuing, are able to shew autentike buls (whereof some I haue seene) to the contrarie. And Rebuff. who* setteth downe the most ordinarie tenor of them, as they were sped vsuallie in the court of Rome, and maketh an exposition of them, doth shew that they were not onelie in title but also *In commendam* granted there for terme of life. Yea, though they had not bene there so granted, yet the* statute which throughout speaketh of Purchasing dispensation, of taking, receiuing, and keeping of two benefices with institution and induction, which breedeth a title, and that without any limitation or distinction of time, doth conuince him of arrogant vanitie in this behalfe. For* the statute for dispensations, doth not alonelie establish licences accustomed to be granted by the See of Rome (as he vntrulie surmiseth) but reacheth also in some sort vnto dispensations for any matter whatsoeuer, not contrarie nor repugnant to the word of God. And if he will affirme these dispensations during life to be contrarie to it, then shall he not be anie more able to excuse those which are granted but for terme of seauen yeares, (which he seemeth to thinke lawfull) than he may doe the other which be perpetuall. And here vpon againe he telleth The commissioners, that manie licences will vpon this point be found void, which hath told vs by the scope of this whole discourse, that all dispensations for pluralitie were simplie forbidden by lawe, wherevpon it must needs follow, that they should be vtterlie void, so that all this labour about making of them void, vpon the Causes and circumstances of granting, is hereby descried to be as needlesse and vaine, as his proofes of the former inducours were weake and feeble.

* Rebuff. in
forma dispen.
ad duo. & in
verb. quoad
vixers.

* 21. H. 8. c. 13

* 25. H. 8. c. 21

Contra-
rietie.

18. Sect. Pag. 151, 152, 153, 154, 155, 156.



The matters contained in this section (I do take it) may verie conveniently be reduced to these four heads, that dispensations are to be granted with examination and looking into the cause, that they must be granted at and according to the petition of the partie, that nothing be exprest or concealed, which by likelihood might haue induced the iudge to denie the dispensation, and lastlie that he dispense not, but where the law-maker himselfe would haue bene moued to dispense, by the equitie of the cause, if the case in particular had bene opened vnto him. Now if he meant hereby to instruct the Archbishop how to obserue law in granting such dispensations, which he would beare vs in hand are wholie vnlawfull; then hath he sadlie induoured himselfe (as the prouerbe is) to be starke mad yet with good reason and discretion. Yet the Archbishop hath perhaps some cause to giue him thanks: which out of that deepe buttrie, and plentifull storehouse of law, wherewith by long and painefull studie no doubt he is furnished, hath at the length with much trauell and græuous throlws, brought into the world such a litter of lawes, as the Archbishop could not haue had with so apt applications, at the best Ciuilians mouth about the arches, for a thousand pound. But if he meant onlie to informe aforehand those, which shall sit vpon the Commission, which he mindeth to purchase forth, how they may trip the Archbishop for breach of these lawes, which yet For the most part heretofore were vnknowne and vnpractised: then it were requisite he should yet he leape, loke whether his Rapodies and Summaries haue not deceiued him, and whether his collections vpon them, were not something too hastilie ripe for to last out anie long time. That ^a which he quoteth in the first place,

^a Gl. extra
vag. extra

*bilis de preb.
ver. vltimo.*

*b Summa. l.
de eate ff. de
minoribus.*

*c Gl. in ver.
certa ratione
c. sane Ext.
de privileg.
per c. petisti.
7. q. 1.*

*d Linniso ff.
de regulis
iuris.*

*e c. licet Ae-
li. Ext. de fi-
mon.*

*f Summar. l.
fin. C. de fidei
com. libera-
tibus.*

place, though it be true that a knowledge of the cause must be had, containeth no such matter at all, that Privileges be prejudiciall, is neither generallie true, nor yet proucd and confirmed by anie of the lawes which he alledgeth. But that those things which doe breed prejudice, are to be handled with full knowledge taken of the matter (which he translateth vnskillfully Decision of the cause) are the words of the summarie of that law, and ^b not so full in the verie law it selfe. And yet by the word Preiudice there vsed, a damage or detriment (as it signifieth in our common speech) is not meant; but a foreiudging of one thing impli- ed by another: albeit that other meaning giuen by me else-where to the same place, may be also safelie admitted. That of the ^c consideration of the reason and deliberation to be had in granting a priuilege, are the words of the glosse, and not of the text, gathered by the like example of that canon by him quoted *Potuiſti* in ſteed of *Petiſti*. The o- ther is too ſtrange a quotation for me to coniecture what ſhould be meant by it, or where it may be heard of. The next likewise to theſe is ſuch a s. quoted without law, as I can not find in the title whither he directeth me. That ^d follow- ing is not *Inuito non debet conferri beneficium*, but, *Non datur*: a benefite is not beſtowed of a man which is vnwilling to receiue it. The place out of the ^e decretals hath no ſuch matter as he aſcribeth to it, but containeth a good example of it, whereof by waie of argument that may be ſet aſone. And that ^f out of the Code is the ſummarie onelie gathe- red of that law which is quoted; but he ſhall neuer proue good lawyer, *Qui ſapit tantum ex ſummarys*, as one truelie ſaith. And theſe be his profeſ of the two firſt heads which he hath as ſlenderlie (you ſee) proued, as it was in truth ſuperfluous to ſtand vpon ſuch points, which beeing truelie vnderſtood, none will denie. Yet if either the looking into the cauſe or petition of the partie ſhould be omitted, there is no one word here ſo much as caſt out, that in ſuch re- ſpect the diſpenſation ſhould be void. But I do coniecture, that

that (of the Petition of the partie) is brought in by him, against the vsuall clause *Ex mero vel proprio motu*: though he do not plainlie expresse so much. If it be so, then truelie he sheweth his ignorance greatlie therein, for a man may be said to grant of his owne proper or moere motion, although the partie made petition: when * as he is not moved to grant, onlie because the other desired it, but of a willingness also and bountie in himselfe. But how the Abstractor should vpon these speeches ground, (which he was bungling about once before, euen with a contrarietie to himselfe) that no cause may be alledged for obtaining of a dispensation, Sauing necessitie and vtilitie of the church, I can not possiblie deuise, except he be inspired with Anaxagoras spirit *Per μέτεμ ψυχῶν*, by Pythagoricall transmigration, who would make *Quidlibet ex quolibet*, euen what you will of anie thing. Touching his Syllogisme, I am to saie, that if in his indefinite Minor, assuming Dispensations to be hurtfull and preiudiciall, he will speake like a Logician, with whom propositions of that quantitie are reputed equiuallent with particulars; I will grant that some be such. But if he speake therein as a lawyer, with whom such are correspondent to vniuersall propositions, I do denie it as vnttrue. Further I obserue, that he hath caute- louslie changed the words of the glosse, speaking of Deliberation and aduise-ment, and ther vpon his Maior should be warranted, into Consultation: as though it were requisite in granting of euerie dispensation, to haue a solemne conference (of I know not whom or how manie) to debate the matter. And where by supposall he seemeth to deliuer, that vpon The consultation, a Sentence must be framed to that purpose, and thereto * quoteth a place: it doth no more serue this turne, than if he should haue alledged it for prooffe that an armie of men ought also to be present. As touching the third point I do yeld, that he which seeketh a dispensation, ought not to suggest or conceale any thing outward and in fact, whereby it is proba- ble

* Bald. in c. nisi Ext. de off. legat. Dec. conf. 51. Et pro sententia. Cuius sen. cō- sil. 66. Paris. in c. acciden- tes Ext. de prescrip. Cagnol. in l. qui cum alio ff. de reg. iuris.

* c. sano Ext. de privilegijs.

ble the iudge might be led to denie such dispensation. And likewise, that an inferior iudge, who is tied in dispensations to the ordinarie course of law, should not dispense in such cases as he is perswaded the superior, who gaue him authoritie, would not dispense in. The first of the places, which to this purpose he bringeth, is either by the printer negligentlie, or by himselfe so peruerselie quoted, that I haue no direction therby to find it. The other place speaketh not of dispensing, but of iudging, and decideth that there should lie none appellation, *A praefecto pratorio*, being the chiefe officer vnder the Emperour, and not much unlike the L. Chancello here: because it was to be beleued and presumed, that he would iudge none otherwise than the prince himselfe would: and is not (as he alledgeth) *Non aliter iudicare debet*, He ought not otherwise to iudge, but it is to be beleued that he will not iudge. Now to proue that the parlement, which by act authorized the Archbishop to dispense, would not grant a facultie for two benefices, though all externall circumstances consisting in fact, were in specialtie trulie recounted without concealment of any point materiall & requisite therein to be knowne: he hath deuised a proper new matter and interlude with diuerse interlocutors, neuer plaid before: wherein he playeth all the parts himselfe, and one besides. By which in effect he must for his purpose collect thus: The parlement would not grant to some man a dispensation for the retenuing of two benefices, Therefore it will denie vnto all men. Or thus: To him which hath sufficient already, they of the parlement would denie, Therefore the Archbishop ought also to denie. The first doth not follow, and the antecedent of the second is not necessarilie true. For the Abstractor himselfe hath deliuered, that Dispensations are not to be granted for the necessitie, or vilitie of the dispensed, but vpo other vrgent necessity, vilitie of the church, descent from ancient parentage, or for excellent qualities of the mind. All, diuerse, or some one of which may happen
to

to be found in him which hath sufficiencie of maintenance alreadye, by ecclesiasticall preferments. Therefore the Doctor of his syllogisme, speaking of the parlement of the Archbishops passing of a dispensation to a man which hath two benefices alreadye, is a vaine and childeish supposall of a thing impossible, the law standing as it dooth: for he which presently dooth enjoy two benefices with cure of soule or parish churches (whereof onelie this treatise speaketh) can not effectuallye be dispensed with for such another. And besides the drift of his speeches, it may otherwise be certeinly presumed, that he meaneth not in this discourse by Plurified men, such of his dearlings as make no scruple of intoleng not onlie a Dualitie but a Trialitie, or Totquot of prebends, or such like ecclesiasticall promotions seldome or neuer comming thither to do any dutie: yea, and that without anie dispensation, for else it were no bargaine. Yet this is in verie truth the case, which such lawes as he hath brought (so bitterlie inueighing against pluralities) do for the most part speake of and meane, for that by law they are reputed benefices as well as the rest: yea, although it were but a Prest-monie or pension out of anie ecclesiasticall preferment, it ought not to be retained together with another, without a dispensation. So that, if he deale anie more so stricte and vnadvisedlie, as to seeke the taking awaye in generall of all dispensations for mo benefices, and thereby call into question or endanger some mens holding of mo prebends, or other ecclesiasticall promotions than one; he may happen haue his porcie of speaking for them reuoked, and be controlled hardlie besides. The Doctor also is but a loose and vncertaine coniecture, what the parlement would do in such a case. For the Abstractor himselfe hath giuen sentence alreadye that they may do by law, if anie of the forenamed inducements be found in a man though otherwise sufficientlie provided for. Yet further he hath not decided or touched anie parte of this: if the Archbishop dispense where it is not likelie the parlement

ment would so do, whether thereby the dispensation shall be void? But the statute it selfe doth *Ex superabundanti* decide all these points, whereupon the Abstractor so much ploddeth purposelie to make some dispensations void in some other respects: bicause he can not proue them to be simplie against law, and also for to make the doings of the Archbishop odious, as though he did passe some faculties in other manner than law would warrant. For the act doth both set downe that in cases accustomed to be sped at the See of Rome, and also in such as had not bene so accustomed being first allowed by the prince or his counsell (yet allwaies so that they were not contrarie or repugnant to the word of God) the Archbishop might dispense: (for the which purpose also a booke of taxes of all such manner of dispensations in accustomed cases was agreed vpon, and rated out by authoritie thereof) and it doth besides for the

forme and manner of proceeding in granting of them, in dow the Archbishop and his successors with Full power & authoritie by themselves or by their sufficient and substantiall commissarie or deputie, by their discretions from time to time, to grant and dispose, by an instrument vnder the name and seale of the said Archbishop to anie subiect, &c: all maner licences, dispensations, &c. By ^a which words of Full power and authoritie, and by their discretions, they do stand free and exempted (as law doth teach) from the exact and limited obseruation of the order and course of law positive concerning the maner of proceeding: and do onlie rest bound, with the reason of the law of nature, that therein they proceed not to deale anie waie dishonestlie. Which condition, euen in such Full and ample authorities whatsoeuer, must be ^b allwaies vnderstood and obserued. Now a Full and free authoritie of ^c disposition, is noted to be of foure sorts in law. First, in the disposition of a mans owne priuate goods, whereby he may chose that which hath lesse equitie, and leaue that which hath greater: *l. fidei commissa* S. *quancquam* ff. de legat. 3. iuncta. l. creditor. S. *Lucius* ff. mandati.

Second

^a *Gemin. in c. rel. tit. 37. dist. Imol. & Fely. in c. 1. de constit. Ruminus conf. 18. li. 10. Barr. in l. alio ff. de aliment. & cib. soc. sen. cōf. 170. li. 2. b* *L. 1. iun. ff. l. dotalem l. in fraudē. & l. si a milite. S. 1. & 2. ff. de milit. test. l. 3. S. procurator. ff. quod quisque iuris.*

^c *Bald. in tra. sta. statut. verb. arbitrium.*

Secondlie, when it is not grounded vpon anie ordinarie law: *l. ante litem ff. de procur. ibid. libera potestas.* Thirdlie, when without anie constraint or commandement of another, a matter is free and willinglie done: *l. si quis maior. C. de transact. & ibi Iason.* And fourthlie, that is called full and free authoritie, which needeth not to obserue the solemnities of law: *l. i. ff. de Milit. testam.* Whereby it appeareth, that albeit the Abstractor had proued sufficientlie, not onelie the said foure circumstances to be requisite by ordinarie course of law, in granting dispensations for pluralities, but also to haue bene in such sort necessarie, that the omission of anie of them should haue made void the facultie granted, and also had proued that in truth they were omitted, which he dooth but vaine and beyond ground of law, barelie surmise: yet would the act of parlement (we see by law) haue deliuered all dispensed persons from anie such needlesse feare, and the Archbishop and his Commissarie from all iust blame.

19. Section. Pag. 156, 157, 158, 159, 160.



In this section the Abstractor toucheth these points especiallie, that a cause for dispensation must be alleged and also proued; that howsoever some causes may perhaps be proued, yet other some can not, that the cause being not proued, maketh the dispensation void, with a declaration of his owne resolute opinion, & of some others, touching such dispensations. Concerning the first thre, the answers before made, may suffice. The first of them he would proue by similitude of other matters: wherein a bare allegation without proufe, is not sufficient. Which though it might well be spared, as being nothing doubtfull, nor necessarilie concludent to his purpose: yet I must tell him, that his quotations in the margin do not warrant that, which is in the discourse. For

Aa. ff.

* Bartol.

** Bartolin l. 1.
C. de probat.*

** Bartol.* in the place quoted, onelie saith : that the plaintiffe is to proue his action, as the defendant is his exception. The place quoted out of the Authentikes *Collat. S. teneantur*; and the next *Glos. & Doct. in proem. l. 6.* are new-found directions; which I cannot for my part skill of: except by the latter of them, he shuld meane the preface vpo the Sext where yet no such thing is found. That Of restitution of a church dammified, wanteth wholie prooue; where he saith, The like is verified of him that is dispossessed of his goods in the time of his absence beyond the seas, and thereto quoteth, or ment to quote *C. consultationibus Ext. de offic. delegati.* He is to vnderstand that no such thing to any like purpose is there verified, but that If a man pretended himselfe to haue beene eiection out of possession through wrong or force, by some that is then traueilling abroad about studie or such necessarie occasion, that possession may not be awarded in this case vnto him. Touching the next and second point, though the dispensations we handle, were such as ought to be granted according to the strict course of proceeding in lawe: yet one of the foure causes (which is sufficient) being so easie to be proued (as he himselfe doth confesse) we shall not need to expect a concurrence of them all, as he must either here haue insinuated to be requisite, or else must yeeld, that he talketh impertinentlie to the matter. Yet both necessitie and vtilitie to haue bene looked vnto in these dispensations, may be shewed: (though not in the prerogatiue court amongst wils and administrations as he gesseth, nor yet as arising by Not teaching the people, as he calumniously doth suggest.) But bicause it is more profitable for the people of two parishes, to haue a learned man sometimes to instruct them, and he thereby to be well mainteined: than that they should be committed to two seuerall men, though abiding with them continually, yet not able to preach to anie purpose vnto them. And both the consecution hereof, and the thing it selfe, considering the number of congregations, and the raritie (in
com

comparison of them all) of able preachers in England, is
 or may be notorious to the world. Yea, and they are forced
 to take the like course for want of able preachers in other
 reformed churches abroad, as in Holland, Zeland, and o-
 ther places at this day, where I wis they haue not all their
 ministers learned and able preachers: but sundrie simple
 (though goodlie) artificers to serue in their meaner congre-
 gations. And if he tell vs here, it were better in this case
 to haue an vnion; though this cannot so be cast, that either
 the people may or will come together to one place, but that
 euen then there must be chapels for easier resort in winter,
 and for the elder and weaker sort at all times, (which is all
 one in effect with Pluralitie, seeing the auditorie receiueth
 partition:) yet it were more thanke-worthie in him, or in
 any other that could deuise a plat, not onelie how all these
 and other difficulties, and the inconueniences of innouati-
 on may be met with in these vnions: but also the meanes
 how it might be compassed, that patrones should willing-
 lie relinquish their inheritance herein, or ioine it according
 to this deuise with others, *Per alternas, ternas, aut quaternas*
vices: or how it may stand with reason, to breake the foun-
 ders and testators wils in this case, more than in the other.
 In his entrance into the third point, he contrarieth his
 owne sayings as well afore, where he assured the commis-
 sioners they should find Manie dispensations vpon omis-
 sion of some circumstances to be void, and therevpon their
 benefices void: as here where he saith: The most part of
 dispensations to be nothing in effect at all. For here he al-
 ledgeth manie lawes, onelie to proue, that such faculties
 ought to be reuoked and made void in lawe: and so con-
 foundeth Void in law, and voidable onelie by law. But to
 this third point I answer; Insomuch the Archbishop hath
 by statute Full power and authoritie by his discretion to
 dispense, whereby sufficient cause is alwaie presumed, and
 he not tied to all these solemnities and circumstances, and
 for that, neither the places by the Abstractor afore alledged

Contra-
 rietie.

do make a dispensation simple void, where such circumstances be omitted, and because manie things may be done in other forme and maner than law prescribeth, which are not in that respect void and adnihilate, (as hath bene shewed in the first treatise :) and lastlie, because the allegation of these omissions is a matter in fact, and by himselfe but surmised without profe: that although all his allegations of law here, were directlie to his purpose, that yet these dispensations are neither void nor voidable. But in the fourth and last place he presseth vs with authoritie of The Lords seruants, who speake against them, preach against them, and write against them. Indeed a man may be the Lords seruant, and so do: though thereby it doth not follow, that either they do well and aduisedlie therein; or that they perfectlie vnderstand the matter, and the exigence of the cause, or that therefore the thing is impious and wicked. I haue knowne as great & greater exclamation vsed against mere indifferent things, (now by them confessed so to be) as though they had bene either simple impious, or so folwlie abused that they could not haue any tollerable vse, euen by as godlie and learned men as these are, which now he speaketh of. But it is the abuse of some few carelesse men, and not of the matter it selfe which giueth occasion of that offense which is taken: and it were vnreasonable, because caterpillers some yeare haue bred in your orchards, in that respect to helw downe all your trees. The philosopher saith: Whatsoever hath his vse, may be abused, sauing vertue. And so, whatsoever may be abused, being not simple vicious and wicked, may be well vsed. And it is not the continuall abroad amongst their parishoners (which none of them all do) nor the often, but the sound, orderlie, and pitthie preaching vpon necessarie points, that dischargeth the dutie of the pastor, who may be in truth as bad as Non resident, though he were continually nailed to the pulpit, as Luther once pleasantlie spake of Pomeran. And those which by following this theame, do
 shot

shoot at nothing else, but to tie vp a good and learned diuine, to a petit and meane salarie by yeare : let them be assured, that desolation of the exact studie of diuinitie, and other good learning, whereby onelie the papist, and other heretikes are suppressed, and barbarisme is kept out, will follow after a beggerlie and contemptuous cleargie, whereas by their liuing they shall be scarce able to find themselves and their families : and therefore much lesse be able to furnish themselves with such booke as are requisite to attaine vnto any exactnesse or maturitie in learning. The lamentable experience of which decaye of learning, by the smalnesse of church liuings, some notable churches and common-weales of the other side do already partly seele, but the wiser sort of them doe more feare to smart for, hereafter. And therefore, where the Abstractor assumeth, that the cause and reason whereupon such dispensations were vsed, doth cease, and would thereby gather that the effect should cease : I saie, that when he or any other shall haue proued, that not onelie some one cause thereof, but all the causes ; and not onelie the impulsue, but also the small causes of it are ceased : then (as law willett) I must grant the act in that point to be laid on sleepe, and not to be put in vze, till some of the same causes shall happen againe. But besides his otone assurances, which are sure and good enough, for anie such as will trust him vpon so sufficient securitie : he inforceth this matter by the words Of a lawyer (he saith) of singular iudgement. Whereas now for any thing we know of him at his hands he may be who he will: peraduenture the famous Grangouier, grand-father to prince Pantagruel, or some such great renowned cleerke as he was said to be, which first in this world deuised to plaie at dice with a paire of spectacles on his nose. But it may be that one cause hereof was, bicause he would not seeme to haue taken so much of Rebuff. by waie of loane and vpon credit, which yet is no blemish for such deepe lawpers as he and I are : and another, bicause he hath falsified his

Arg. l. i. S.
sexten ff. de
postulando.

Falsificatio.

A. iij.

his

his author (I know not in whose fauor) by translating,
*Quid debet ecclesia Dei plurium nobilium vanitati, ut patrimonio
 Iesu Christi dilectissimi sponsi sui, &c: alas accipitres, educat canes,
 &c: thus; What? Shall the church of God, the best belov-
 ued spouse of Iesus Christ, &c: feed halowes? bring vp
 dogs: &c. Whereas in truth it is: What dooth the church of
 God owe vnto the vanitie of manie noble men, that with
 the patrimonie of Iesus Christ, &c: it should feed halowes,
 bring vp dogs, &c. But the great learned lawyer him-
 selfe, whome he indeed meaneth, euen Bernardus Diazius,
 and whome *Rebuff. termeth a reuerend father, dooth in the
 next words following declare, that he directed this inuec-
 tiue Against husbandmens sonnes more vnlearned than
 their parents, which *Illicitis modis plura occupant beneficia*, by
 vnlawfull meanes doe occupie manie benefices: and also
 against such, which being neuer so cunning, or how lear-
 ned soeuer, *Doctrina sua nunquam Catholica ecclesia profuerunt,
 nec prodesse curant*: yet did neuer by their learning profit the
 catholike church, nor euer care to do good in it. The peremp-
 tozie iudgement of Rebuff. which he afterward alledgeth,
 *but wrong quoted, is somewhat too sparinglie by him
 translated in that word, *Si perperam concessa sit*: if it be gran-
 ted vnderlie: whereas it should be, If it be naughtilie
 granted. And it is grounded vpon a false principle of po-
 perie, that he which breaketh euen the positive law of the
 pope* (such as the prohibition of pluralitie is,) dooth (as
 they terme it) sinne mortallie, euen directlie and immedi-
 atlie against conscience, which is no small part of his An-
 richristianisme, whereby he sought to sit in the consciences
 of men. Yet thus much may be gathered of this saieng,
 that where it is orderlie granted as law prescribeth, there
 it carrieth not in his iudgement any danger with it vnto
 either partie, the condition of it thereby ceasing.*

*Rebuff. de
 dispens. ad
 plur. bene.
 m. 60.

*Ibidem m.
 34. fol. 249.

*Rebuff. de
 dispensat. ad
 plura benefice.
 m. 22.

20. Section. Pag.161,162,163.



At now hauing so substantiallie (as you haue heard) ouerthrowne all dispensations, he was belike afraid he should be iustlie called *Coram* for inforcing so violentlie a diminution of hir Maiesties reuenues, arising by the taxes of them. To salue vp which sore, he letteth all other faculties alone; wherein hir Highnesse must (at his request) sit downe by the losse: and for thre of them, that is, Dispensations for simonie, non residence, and manie benefices, he doth assure hir Maiestie vpon the credit of his arithmetike and auditorship, that They are indeed a great diminishing of hir reuenues. But albeit he laie out all thre in his conclusion to be proued, yet he doth not in his proofes once name the facultie of non residence, which by no shadowe can preiudice hir Maiesties cofers. And when he should descend to the casting forth of his proportions, and extraction of the root, by the rule of Cos. and Algebra: he misseth the principall matter (euen his taxes) to worke vpon, and leaueth in his Booke a blanke or a glasse window, for anie such to glaze vp, as come and will doe him that fauour, so that, *Cum desint vires, tamen est laudanda voluntas*. The man was willing to haue done somewhat, if he could but haue told what to haue said.

That the facultie for Simonie committed, is a diminution to hir Maiesties reuenues, he proueth (supposing first the tax thereof to hir Maiestie to be in shillings, whereas it is indeed in pounds:) bicause if the partie dispensed with for simonie were depriued for it, then hir Highnesse should reape more benefit a great deale, by the first fruits of the next incumbent than the tax mounteth vnto. But how is the Abstractor here become so strict laced, as to call for their depriuing, whose fault (in waie of gratification of simoniacall

monte call patrons) he almost wholie excused in the former treatise? The truth is, this kind of dispensation is verie seldome vled, bicause most of those which are guiltie of that fault doe deale so closelie, and are so iustlie doubtfull of obteining it vpon petition, that they hold it better (without opening of themselues) to sit still quietlie. Whereby it can not easilie be put in practise, but where some not knowing the rigor of the canon herein (which condemneth for simonie euen entreatie and meanes-making, and that recompense also which is but conceiued in hart, perhaps onelie in waite of thankfulness after, so the same may vpon necessarie circumstances be gathered) and therefore of simplicitie without corrupt meaning falling into it, and fearing the malice of those, which stand hardlie affected to them, are forced for their further safegard, to procure this facultie. It may haue a good and a commendable vse besides, where an old man meaning to resigne, treateth in simplicitie with him which is to succeed for a pension according to lawe, without the Ordinaries priuie: or where two beneficed persons in good and plaine meaning, without allowance of the cause by the Ordinarie, doe deale about a change of their benefices: or where a man is circumuented by suborned witnesses, and depriued for it without remedie of appellation, and the ill dealing is detected afterward. In which & in like cases it is meet that they should be restozed to their ministerie and liuing, if they be otherwise vnspotted, and be profitable to the church. And I verelie doe perswade my selfe, that hir Maiestie would be loth in such cases to haue them depriued, that she might haue the first-fruits of their benefices, as the Abstractor dishonozable would insinuat. Yea, and those also are directlie within compasse of that simonie, which we call *Mentalis*, of mind onelie: which see well inough what is meant by their patrons, but willinglie doe winke, and so enthrall themselves (by large bonds to their patrones vpon warning pressed to resigne) either to grant a lease for a little
to

to paie, or to packe. Whom assuredlie I doe so little pittie, that I thinke them as vntwoorthie to obtaine a dispensation, for dallieng with the law and their owne conscience, as those other merchants which bluntlie go to worke, agree with their patrone, pitch and paie.

That dispensations for manie benefices (which is the last of the thre) is a decrease of hir Maiesties reuenues, he would proue thus: bicause they being hereby in a few mens hands, doe not fall void so often as they would doe, if euerie seuerall man had a seuerall benefice, and thereby hir Highnes first-fruits are not so often paid ouer as they might be. For the discussing of which weightie point, let vs imagine that a hundred men haue two hundred benefices, and on the other side, that two hundred men haue two hundred benefices. Now, can anie man giue a reason, why it is not as likelie, that ten men of the one hundred shall die in one yeare, as twentie of the two hundred, seeing it is the same proportion? Then (I praise you) what difference or alteration to hir Highnesse treasure is it, whether twentie benefices fall void by the death of ten men, or the same number become void, by the death of twentie seuerall persons in one yeare? So that, if hereby there arise no diminution, and the tare for the dispensation be an increase of the reuenues, then shall the Abstractors argument *Ab vili*, be found to be scarce to his owne honor and credit. And if the time of expectance of the auoiance of his benefices which hath two, did worke anie diuersitie betwixt the two cases: yet were this delate of time sufficientlie recompensed vnto hir Maiestie by the tare of dispensation paid to hir cofers. Yea, if those which haue mo benefices, doe fat vp and grease themselves (as he afore objecteth:) hir Maiestie shall be in great likelihod to haue first-fruits paid ouer for both their benefices, much sooner than for him that liueth vpon one, more frugallie and sparinglie: yea, and further these times are so quarelsome, that by one quicke or other of circumstance about them

them and their dispensations which haue two benefices, more auoidances a great deale doo happen; than in such seuerall benefices, which are and haue bene intioed for the most part by seuerall men, as dailie experience teacheth,

Now, for the better remouing of a scruple, which happilie might be obiected by some vnskilfull man against all dispensations, priuileges, indulgences, exemptions, pardons, and immunities, whose effects are either To benefit, to exempt, to helpe, or to release: I hope it will not seeme impertinent to speake something. For it may be alledged, that the office and nature of a law is generallie and in common to ordeine, concerning the guiding of the affaires of men, as Aristotle teacheth in his Politikes. And the law^a saith that Lawes are to be applied rather to those matters which happen easilie & often, than to those which chance but seldome. And^b againe, A law is a common commandement: wherevpon it seemeth, that the old lawgiuers among the Romans, as holding it vnequall to set downe lawes, which were not to reach indifferentlie vnto all in generall, did^c decree thus: *Priuilegia ne irroganto*, let no priuileges be granted. In which respect a^d priuilege is described, That it is a singular right or law, which for some vtilitie, by authoritie of the lawmakers, is established against the tenor of reason. Whereby it might seeme, that all immunities are vnlawfull. But it is to be answered herunto, that the naturall iustice and reason, whereby mans mind is directed vnto ciuill societies, doth not alonelie rest in the generalitie of lawes, but aduisedlie weicth by the circumstances, whether right to all men be well distributed in them, wherevpon the Græcians called the law *νόμος*, as it were a distribution. So that if anie person vpon something especiallie considerable, be not well and iustlie provided for, vnder the common and generall precept of lawe: then he is to be respected by a priuate and speciall law, wherevpon the name of a priuilege floweth, *Quasi priuilegium est, priuata lex*, as the old Romans vled to speake. For not

^a L. 5. ff. de legibus.

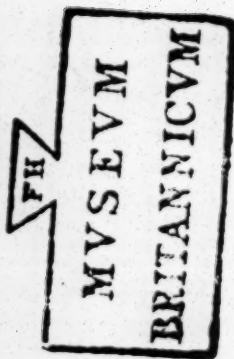
^b L. 1. ibid.

^c 12. Tabulæ.

^d L. 16. ff. de legibus.

not onelie they, but all other rations, as they afterwards grew more prudent daie by daie, through long experience and vse of things, did well perceiue that no law generallie written, without all moderation by circumstances occurrent, could possiblie but deliuer, in stead of right, oftentimes plaine iniurie and tyrannie: according to that common proverbe; *Omne ius habet annexam gratiam*: Euerie law hath or ought to haue grace and fauour annexed: an^{*} ex^{*} ample also thereof is reported in law; and therefore *Summum ius est summa iniuria*: Exact and precise law is great iniurie, being once disioined from equitie. And therefore those words Against the tenor of reason, are not to be vnderstood as though a priuilege were against naturall equitie: but bicause it is an abridgement or exception of the generall principles and rules of law which are grounded vpon reason. Neither yet so, as though it did cleerely contrarie and impugne the reason of the common and generall law, which it onelie doth in some appearance: but being considered vpon other good grounds, it is for the most part verie agreeable to reason, right and equitie, which may be made plaine by this one example. It is of common right and equitie, For euerie man to keepe touch, to performe promise, and to satisfie the credit given him either in his owne, or in an others behalfe. ^{* L. i. ff. de pactis. insit. de fideius. in princ.} Yet, if we should comprehend children vnder age in the generalitie of this rule, who be subiect by reason of their tender yeares, and slender discretion, to be circumvented and manifoldlie over-reached, it were a verie vnjust and vnequall law. And therefore seeing there is such inequality betwixt them and men of riper yeares, the same rule cannot without iniustice alike pertaine vnto them both: so that it is meet by some exemption and speciall priuilege, that their tender yeares should be considered and prouided for. To conclude, neither are all priuileges and dispensations against reason or right, neither hath the Abstractor sufficientlie proued any of these particulars of this treatise which here he doth recapitulate and rehearse, but much lesse hath he proued his principles.

principall issue, that Dispensations for manie benefices
are vnlawfull. Which at the closing vp of all (for verie
same) he was forced a little to change, by pretending to
haue spoken all this while of Two or mo benefices,
and not of Manie, as the verie title which he
hath prefixed to his treatise, and his
whole discourse thereupon,
doth plainelie im-
port.



FABIUS.

*Fælices essent artes, si de illis soli
artifices indicarent.*

FINIS.

Quorundam vocabulorum & semicla-
sularum recognitio.

Pag.	Lin.	Recognitio.	Pag.	Lin.	Recognitio.
6	16	Of	117	9	altercation
9	31	legatine	117	11	matter
45	1	mustered	121	7	tossing
64	13	euer	127	15	deconskip
64	30	whence	136	16	generalie it is
57	36	from other chur- ches	161	29	for him not to,
58	24	sound	191	3	or
69	22	where	193	24	vtilitie
71	21	hir	196	34	<i>Apostasare</i>
73	17	holdeth not when	227	19	deobans
76	25	yet with this	228	13	as being
82	17	seeketh	257	13	about
105	7	deposition	295	19	no man taketh
105	23	legatine			this honour
110	4	and	318	31	the dust of the feet
111	22	Bishop			of their seniozie

*Addatur 3. linea termino in pag. 227. istud subsequens: Ergo without a
dispensation it is not lawfull to enioy mo benefices.*

